Louisiana Bar JOURNAL

Volume VIII
AUGUST, 1960
Number 2

INSTITUTES ON NEW LOUISIANA CODE OF CIVIL PROCEDURE

Following are the dates of four identical two-day institutes on the new code to be held under the sponsorship of the Committee on Continuing Professional Education:

Monroe, October 7-8	Paragon Supper Club
New Orleans, October 21-22	Jung Hotel
Shreveport, November 4-5	Municipal Civic Center
Lafayette, December 2-3	Evangeline Hotel

TENTH LOUISIANA CONFERENCE of LOCAL BAR ORGANIZATIONS

Louisiana State Bar Association

LAFAYETTE, LOUISIANA
Evangeline Hotel

DECEMBER 2 - 3, 1960

The program will consist largely of the institute on the new Code of Civil Procedure. Additional details will be furnished.

SECTION ON INSURANCE, NEGLIGENCE AND COMPENSATION LAW

The Insurance Section of the LSBA was reorganized and broadened at the last annual meeting. It is now known as the Section on Insurance, Negligence and Compensation Law. As the section is now constituted it is believed that its work will be of interest to, and will benefit every member of the Association. Planned are a section newsletter and various seminars. In order to finance such a program, the membership, in adopting the new section charter, approved the assessment of annual dues in the amount of $5.00 per member. Complete the attached application blank and return it with your check to the LSBA, 301 Loyola Avenue, New Orleans 12, La.

Application Blank—**Section on Insurance, Negligence and Compensation Law**

Name (please print) .....

Address .....

.....
Signature

Louisiana Bar JOURNAL

Published Quarterly by the

LOUISIANA STATE BAR ASSOCIATION

101 SUPREME COURT BUILDING NEW ORLEANS, LA.

Volume VIII | AUGUST, 1960 | Number 2

Contents

SPECIAL FEATURES

DEPARTMENTS

SPECIAL ANNOUNCEMENTS

Entered as Second Class Matter at the Post Office at New Orleans, La., under the Act of March 31, 1879.

President's Page

TO THE MEMBERSHIP:

The recent session of the Louisiana Legislature adopted without change the new Louisiana Code of Civil Procedure, a monumental accomplishment of the Louisiana State Law Institute. This much needed revision of our procedural laws which goes into effect January 1, 1961, will be welcomed by the Bench and the Bar.

Few changes, and no substantial ones result from this revision. In order to fully acquaint the Bar with such changes as have been made, the Louisiana State Bar Association, through its Committee on Continuing Professional Education and with the cooperation of the Louisiana State Law Institute, has arranged to present five institutes throughout the State. The meetings will be held in Baton Rouge on September 23 and 24; in Monroe on October 7 and 8; in New Orleans on October 21 and 22; in Shreveport on November 4 and 5, and during the mid-winter meeting to be held in Lafayette on December 2 and 3. Four reporters from the Louisiana State Law Institute instrumental in the preparation of the new Code will discuss each title and answer all queries.

Professor Henry George McMahon of the Louisiana State University Law School has prepared an article for the Louisiana State University Law Review explaining the changes made in the new Code of Civil Procedure. The University press has authorized the Bar Association to publish this article. West Publishing Company has volunteered to make re-prints at its own expense and to distribute them to each lawyer subscribing to the publishing company's service in the State of Louisiana. The re-prints will be in your hands prior to the Baton Rouge meeting and should assist those attending to follow the discussion of the reporters.

A group of attorneys is sponsoring a banquet in New Orleans, Louisiana, on the evening of October 3, 1960, at the Roosevelt Hotel in honor of Chief Justice John B. Fournet, who has served a period of twenty-five years on the Supreme Court of the State of Louisiana.

The annual Memorial Exercises sponsored by the Association will be held in the Supreme Court of Louisiana at 12:00 noon on October 3, 1960. Our respect for the departed members of the bar should be manifested by a large attendance.

Continued on Page 144

Louisiana Appellate Reorganization Its Scope and Operation

by Richard F. Knight
Judicial Administrator
Supreme Court, State of Louisiana

Ceremonies held in Lake Charles on July 1, 1960, marked the end of an era in the history of the Louisiana judiciary and the inauguration of the new structure and jurisdiction of Louisiana's appellate courts. As is well known, in November of 1958 the constitutional amendments making these changes were overwhelmingly ratified by the people. Subsequent to that time, it was necessary for the Courts of Appeal to formulate new rules, secure adequate quarters, supporting staff and personnel and, in general, make ready for their new and expanded jurisdiction. During this period, ten additional judges were elected to fill the newly created seats on the various courts, to take office July 1, 1960. It was also necessary that legislation be enacted in implementation of the constitutional provisions. This was accomplished in the 1960 regular session.[1]

Much has already been written concerning the reasons for the reorganization of the structure of Louisiana's appellate courts and the manner it which it was accomplished. For a complete discussion of that subject, the reader is referred to the 1958 Annual Report of the Judicial Council.[2]

Changes Effected by Constitutional Amendments

The principal change effected by the constitutional amendments is a decrease in the appellate jurisdiction of the Supreme Court and a corresponding increase in the jurisdiction of the Courts of Appeal.[3] Section 10 of Article VII, as amended, limits the Supreme Court's jurisdiction to the following: cases in which the constitutionality or legality of any tax, local improvement assessment, toll or impost levied by the state or by any parish, municipality, board or subdivision of the state is contested; cases in which an ordinance of a parish, municipal corporation, board or subdivision of the state, or a law of this state has been declared unconstitutional; cases in which orders of the Public Service Commission are in contest, as is provided in Article VI, Section 5 of this Constitution; appealable cases involving election contest, but only if the election district from which the suit or contest arises does not lie wholly within a court of appeal circuit; and criminal cases in which the penalty of death or imprisonment at hard labor may be imposed, or in which a fine exceeding three hundred dollars or imprisonment exceeding six months has been actually imposed. General supervisory jurisdiction over all inferior courts remains vested in the Supreme Court.[4] However, the Courts of Appeal are also given supervisory jurisdiction, subject to the general supervisory jurisdiction of the Supreme Court, over all inferior courts in all cases in which

an appeal would lie to the Court of Appeal.[5]

Without question, the number of appeals taken directly to the Supreme Court has been drastically reduced. However, it is expected that with the inevitable conflicts among the decisions in the Courts of Appeal, there will be a significant increase in the number of applications for writs. Accordingly, the Supreme Court, to a large extent, will become a "writ" court, and, as such, be in a far better position to guide the future development of our jurisprudence. In order to expedite the handling of the great increase in applications for writs, and in order to insure a more thorough consideration of them, the Supreme Court has amended its Rule XIII to provide in detail the items which are to be included in the application and the order in which they are to be presented. The rule also requires that all applications be filed in duplicate, which will enable the court to have two independent studies and reports on each application prepared simultaneously. Additionally, Section 3 of Rule XIII provides that when a writ has been granted by the Supreme Court, the case will be placed on the docket for oral argument. In the past, these cases were submitted on briefs without oral argument. The reasons for these changes should be apparent. With the increased number of writs that will be filed, it is more important than ever that uniformity be established in the manner in which applications are prepared and presented. Additionally, since Court of Appeal decisions will be final in almost all types of cases unless a writ is granted, it is imperative that all applications for writs be studied even more carefully than heretofore.

Filings in the Supreme Court since the first of July indicate that while the type of matters considered by the court will be different, the volume of judicial business will not be reduced considerably. With the flexibility that has been injected into the system at the Court of Appeal level, it is, however, believed that it will be possible for the appellate courts of Louisiana to maintain current dockets. Section 23 of Article VII of the Constitution of Louisiana provides that the Courts of Appeal shall sit in rotating panels of three. If the work of any circuit requires additional personnel, the Supreme Court is authorized to assign additional district judges to the court, or, if necessary, appoint additional panels of judges to sit on the Courts of Appeal.[6] When the case-load of a Court of Appeal increases to the point that additional fulltime judges are required, upon recommendation of the Judicial Council, and with the approval of two-thirds of the members of each House, the legislature may increase the number of judges in any circuit.[7] This is another example of the flexibility which has been injected into the system, so that in years to come the courts may be altered to keep pace with changing conditions, without the necessity for constitutional revision.

Creation and Revision of Circuits

As a result of the increased workload placed on the Courts of Appeal, it was necessary to radi-

cally change their structure. An additional circuit, the Third Circuit, was created from parishes heretofore in the First and Second Circuits. Additionally, the districts within all the circuits were revised.[8] The accompanying map depicts the new geographical boundaries of the new Courts of Appeal circuits and the districts within the respective circuits. The circuits are divided into districts only for the purposes of election of judges. The geographical boundaries of the Supreme Court districts remain unchanged.

As has been indicated, the change in the structure of the Courts of Appeal and their contemplated workload made the creation of additional judgeships necessary. In order to provide sufficient manpower for the expanded courts, ten additional Court of Appeal judgeships were created by the amendment.[9] This brings the total number of Court of Appeal judges to 19, distributed as follows: five judges in the First Circuit, four judges in the Second Circuit, five judges in the Third Circuit, and five judges in the Fourth Circuit.

New Uniform Rules

With the effective date of their new jurisdiction, the Courts of Appeal all began operation under a set of new uniform rules which were prepared by the presiding judges of the four circuits after meetings and consultation with representatives of the trial bench, the bar and clerks of court.[10] Attorneys practicing in several of the circuits will no longer be confronted with the many differences in the rules of the respective circuits which existed in the past.

Under the provisions of Rule I of the Uniform Rules for the Courts of Appeal, an original record and a duplicate original record shall be filed in the Court of Appeal. In this manner, it will be possible for two of the three judges for the Court of Appeal to simultaneously study the record of the case. This will unquestionably expedite the preparation of opinions in the Courts of Appeal. Additionally, when a Court of Appeal writ is granted, two copies of the record will be readily available for transmission to the Supreme Court for its use in deciding the case after argument and submission. It is felt that these new requirements concerning records will result in less expense to litigants and the consumption of less time in the preparation of records to be sent to the appellate courts. No longer will it be necessary to prepare triplicate copies of the transcript of the record except in cases appealed directly to the Supreme Court. Realizing that a degree of uniformity among the circuits is desirable, the Appeal judges from the four Court of Appeal circuits formally met and organized a conference which will meet from time to time for the purpose of exchanging ideas among the circuits and the general improvement and unification of the system.

Additional Changes

Another change in the method of operation of the Courts of Appeal affected by the constitutional amendments is the discontinuance of the practice of the court "riding circuit". Under the provisions of Section 24 of Article VII of the Constitution, each Court of Appeal

is given a fixed domicile where all sessions of the court shall be held. Adequate quarters have been provided for the domicile of each of the courts. In the First and Second Circuits, the old quarters of the courts have been renovated or expanded. In the Third and Fourth Circuits completely new facilities have been constructed for their use.

Under the provisions of the implementing legislation enacted in the 1960 session, each of the circuits is provided with a clerk and a deputy clerk.[11] Heretofore provision was made for a deputy clerk only in the Fourth Circuit. Additionally, R.S. 13:391 provides that each Court of Appeal judge is to be provided with a secretary and a law clerk.

The most significant change effected by the 1960 implementing legislation, insofar as the practitioner is concerned, was the passage of R.S. 13:4438. In the past, it was necessary that all extensions of return days be secured from the proper appellate court. Under the provision of this amendment, the "return day may be extended by order of the trial court on application of the clerk or deputy clerk charged with the duty of preparing the record of appeal, when it will not be possible to complete the preparation of this record in time for filing in the appellate court on the original return day."[12] Other provisions require that the appellate court filing fees be paid to the clerk of the trial court for transmittal with the record, and that fees due the trial court clerk having prepared the record of appeal shall be paid not later than three days before the return day.[13] It is also provided that the clerk of the trial court is under no duty to commence the preparation of the appeal in any case until the appeal bond is filed.[14]

It is the firm belief of all of those who participated in the work of revising the jurisdiction of the appellate courts that with this major change, Louisiana will have the most model and up-to-date judicial system in the nation, that dockets on all court levels will remain current, and that the people of Louisiana will never again have to complain that justice delayed is justice denied.

---

[1]La. Acts. 1960, No. 36 (La. R.S. 13:313, 314, 351, 352, 391, 392); La. Acts 1960, No. 38 (La. R.S. 13:4438, 4441, 4442, 4445, 4446, 4453); La. Acts 1960, No. 37 (La. R.S. 13:4686).

[2]See also, Tucker, Tate and McMahon, *Appellate Reorganization in Louisiana*, 19 Louisiana Law Review 287 (1959).

[3]La. Const. art. VII, §§ 10, 19, 20-24, 26, 28-30, 36, 81, and 91, as amended on November 4, 1958, pursuant to La. Acts 1958, No. 561.

[4]Id. art. VII, § 10.

[5]Id. art. VII, § 29.

[6]Id. art VII, § 21.

[7]Id. art. VII, § 21, paragraph F.

[8]Id. art. VII, § 20.

[9]Id. art. VII, § 21.

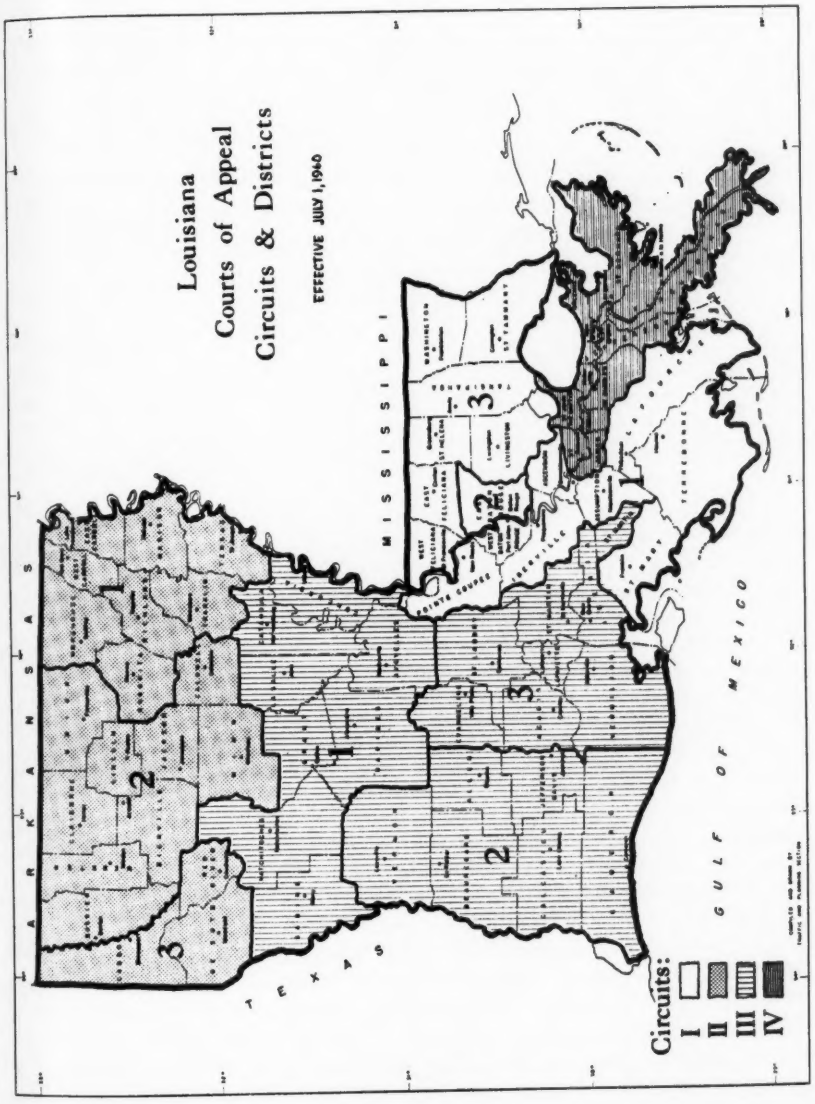
[10]For the complete text of the Uniform Rules see 121 So. 2d pages XXXV through XLVIII.

[11]La. Acts 1960, No. 36, Sec. 1 (La. R.S. 13:351).

[12]La. Acts 1960, No. 38, Sec. 1 (La. R.S. 13:4438).

[13]La. Acts 1960, No. 38, Sec. 1 (La. R.S. 13:4445).

[14]La. Acts 1960, No. 38, Sec. 2 (La. R.S. 13:4453).


Louisiana
Courts of Appeal
Circuits & Districts
EFFECTIVE JULY 1, 1940
ARKANSAS
MISSISSIPPI
TEXAS
GULF OF MEXICO
Circuits:
I
II
III
IV

ANNUAL LEGAL CHECK-UP:
An Important Public Service

The state-wide Annual Legal Check-Up program is now in the hands of the local bar associations throughout Louisiana. It carries the recommendation of the president of the American Bar Association and is officially sponsored by the Louisiana State Bar Association, but its success will depend entirely on local leadership.

This program has been explained in letters and pamphlets mailed to every member of the Louisiana bar. Its purpose is simply to establish professional procedures for extending the practice of preventive law to meet new public needs.

The tradition of preventive law is as old as the tradition of preventive medicine. The wider scope which the medical profession has been able to give to preventive practice is due to the fact that the need for early detection of physical problems has long been recognized as universal, while until recent years the need for this type of legal protection was considered limited. In the past, it applied mostly to large property holders, the owners of businesses, and a few individuals in unusual circumstances.

This is no longer the case. The average citizen in 1960 is affected by the whole complicated structure of federal and state income tax laws, by social security, unemployment compensation, real estate, personal property, inheritance, and other taxes, and by a confusing variety of rules and regulations governing his business or employment.

In short, the need for all-around legal advice is no longer confined to the client who can afford to retain an attorney on a continuing basis.

The Annual Legal Check-Up is designed to help the individual whose affairs do not require constant supervision but do need a comprehensive study. It offers such an individual a thorough annual analysis in the light of current laws and his own changing financial and personal circumstances. It assists him in keeping his taxes at a minimum, his estate protected, and his future moves planned on sound legal foundations. It can save him serious future trouble.

Thus, in the Annual Legal Check-Up plan, the Louisiana legal profession has an opportunity for an important public service. The idea was first developed and formally offered to the public by the State Bar of Michigan. It has since been successfully initiated in several other states. The Louisiana State Bar Association has closely patterned its Annual Legal Check-Up program on those already in effect and hopes to make it one of the outstanding accomplishments of 1960-61.

Public relations assistance will be given by the State Bar Association to the local associations in planning how to acquaint their communities with this program. Copies of pamphlets for local distribution and mats

Continued on Page 145

Use of State Statutes to Effect Service on a Non-Resident Vessel Owner

by Raymond H. Kierr

A body of law as staid as the Admiralty may naturally resist change as a matter of course. But change, a concomitant of progress, is as inevitable as the rise of the tide. At the legislative level the current may flow faster. The process of creating law by statutory enactment affords an expeditious route to modernization, faster than the slow shift of stare decisis.

The proctor's duty is not confined to the courtroom, but reaches over into another forum, his legislature.

The maritime law is well chartered by Federal enactments, and may be even fettered by needless anchors astern, such as the antiquated Limitation of Liability Statute whose motives Judge Hand regards as now obsolete. U. S. Dredging Corp. v. Krohmer, 264 F. 2d 339 (1959). Like the seven seas, there are areas unexplored. In matters not pre-empted by Congress, the state may regulate. One is the use of a state statute to effect service of process in personam on a non-resident tortfeasor vessel owner. Is your state behind the times in this regard? The chances are 46 out of 50 that it is, because only four states provide such a statute.

It is not inappropriate that Louisiana, the only state whose law is based on the principle of complete codification of the civil law, as distinguished from the rule of precedent of the common law, should be the first with the innovation of such a statute.

Louisiana's Statute

In 1948 Louisiana enacted its Watercraft Statute, providing that the operation, navigation or maintenance by a non-resident of a watercraft in Louisiana, and the acceptance thereby of the protection of the laws of the state or otherwise, shall be deemed equivalent to an appointment of the Secretary of State as the non-resident's attorney for service of process in any court action against the non-resident growing out of any accident or collision in which his vessel may be involved as a result of its use within the state. Louisiana Act 132 of 1948, as amended by Act 142 of 1954, now Louisiana Revised Statute of 1950, 13:3479-80.

Louisiana thus provides a local forum into which non-residents, not otherwise amenable to process in personam may be brought to answer for the damages caused by their vessels on navigable waters

Mr. Kierr is a member of the New Orleans bar. This paper was delivered by Mr. Kierr at the convention of the National Association of Claimants Compensation Attorneys in San Francisco July 27, 1960, and was the basis of a discussion at a meeting of the Association of the Bar of Hawaii in Honolulu on July 30, 1960.

within the state. In 1951 Illinois adopted its Non-resident Watercraft Act, CH110, Ill. Rev. Stat. 1951, Sec. 263(a) et seq. In 1959 Pennsylvania passed a Non-resident Vessel Owner Act, approved November 10, 1959. Florida has recent similar legislation. Each of these states had a previously enacted Highway Statute whereby a non-resident motor vehicle operator could be sued in the state wherein his highway tort was committed by service of process on the Secretary of State of that locality; Louisiana Revised Statutes of 1950, 13:3474, originally Louisiana Act 86 of 1928; Illinois Motor Vehicle Law, 95-1/2-9-30; Revised Code of Pennsylvania 2079, 75-1201. A comparison of the legislation demonstrates that the Watercraft Statute tracks the provisions of the Highway Statute, substituting watercraft for motor vehicle, and waterways for highways. Franklin v. Tomlinson Fleet, 158 F. Supp. 850 (N.D. Ill., 1957).

In California there is a Highway Statute applicable to non-resident motorists, providing that suits growing out of accidents occurring within the state may be commenced by service of process upon the Director of the Department of Motor Vehicles, with notice and copy to the non-resident defendant by registered mail, California Vehicle Code 17450 et seq. This California statute is typical of the Highway Statutes found in every other state. Why should not California, with important seaports such as San Francisco and others, not have a Watercraft Statute? Every coastal state, and others with a navigable lake or stream, should afford its citizens the same protection.

Right of Personal Service

How do these statutes get around the vulnerable rule, now passé, that the defendant's natural immunity includes his right to be served personally before he can be made to respond to a lawsuit?

The original hurdle was created in the landmark case of Pennoyer v. Neff, 95 U.S. 714 (1866) which established certain due process requisites for in personam jurisdiction including the requirement of service of process on the offending tortfeasor *within the state*. Fortunately this century old *Pennoyer* doctrine, defendants' dependable work-horse, has been relegated to pasture, if not the glue factory. With its patina of plaintiffs' frustrations, *Pennoyer* passed through the slow mill of geriatrics via the judicial process. After *Pennoyer* suffered "substantial erosion from a series of subsequent decisions, finally, in International Shoe Co. v. State of Washington, 326 U.S. 310, the Supreme Court gave it a decent burial and found that 'due process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.' " Tardiff v. Bank Line, 127 F. Supp. 945 (E.D. La., 1954); 16 NACCA Law J. 276.

Constitutionality of Statutes

As it must to all legislation, there came to the Highway Stat-

utes the test of constitutionality. In the case of Hess v. Pawloski, 274 U.S. 352, the Supreme Court held such a non-resident motorist statute to be constitutional. In *Hess* the Court did not steer to the point by the shortest straight course, that is, by the theory of the state's police power, but rather routed itself through the devious and doubtful theory of implied consent, thereby furnishing fodder to those who would make assault on the new Watercraft Statutes. See 29 Tulane Law Review 111.

The Watercraft Statutes have also had the challenge of constitutionality in the trial courts. The Louisiana Watercraft Statute has been held constitutional in bellwether cases decided in each federal district of that state; Goltzman v. Rougeot, 122 F. Supp. 700 (W.D. La., 1954) involved cargo loss when a barge sank as a result of a collision; and Tardiff v. Bank Line, 127 F. Supp. 945 (E.D. La., 1954) presented a claim for fatal injuries under the Louisiana Wrongful Death Statute when a shoreside ship repairman was killed aboard a British ocean freighter undergoing repairs at a dock in the New Orleans harbor due to the negligence of the vessel's officers. The Illinois Non-resident Watercraft Act has been likewise upheld, in a cause brought to adjudicate a seaman's injury claims under the Jones Act and under the general maritime law's warranty of seaworthiness, Franklin v. Tomlinson Fleet Corp., 158 F. Supp. 850 (N.D. Ill., 1957). The Pennsylvania Non-resident Vessel Owner Act is presently under scrutiny in a matter involving injuries sustained by a longshoreman aboard a foreign vessel as a result of its unseaworthiness and the negligence of its owner, Summers v. Skies A/S Myken, Civil Action No. 26902, U.S. D. Ct. (E.D. Pa., 1960). The Florida act has not yet been assailed.

It may be pertinent to observe that in two of the four cases presented thus far under the watercraft statutes, claims for unseaworthiness are involved. This species of liability without fault is indigenous to the water, and is unknown on the highway. There is no reason why the non-resident should not be required to answer for a breach of his implied contractual obligation to furnish a seaworthy vessel, as well as his negligent dereliction to exercise due care. If culpability is to be the test, then the answer is found in the proposition that "infringement of (the) legal right to a seaworthy ship which eventuates in harm, constituted a wrongful act," McLaughlin v. Blidberg Rothchild, 167 F. Supp. 714, 716 (S.D. N.Y., 1958).

Boundary Disputes

The seaboard state may be faced with a problem concerning its waterways which is not found with regard to its highways. There is no doubt about a terra firma highway being within the boundaries of a state. But the recent Supreme Court decision in the "Tidelands" cases, Texas, Louisiana, Mississippi, Alabama and Florida v. United States, 363 U.S.——(1960) leaves us somewhat at bay as to how far seaward the exact boundary of the state extends. It does appear that an accident occurring, say, three miles from shore, would

subject the non resident vessel to jurisdiction within the State under a suitable watercraft statute.

Arguments Concerning Watercraft Statutes

Those who would scuttle the watercraft statutes, direct their pitch in several directions:

First of all, decry the defendants, the state which adopts a nonresident watercraft statute is invalidly invading the sacrosanct province of the Federal Government to exercise its exclusive jurisdiction over navigable waters. Let us see why this attack itself lacks validity.

All of the framers of the Constitution agreed with Alexander Hamilton that regulation of interstate and foreign commerce, including the power over navigation, should be delegated by the states to the Federal Government. Article I, Sec. 8, Clause 3, was an unchallenged consensus for over thirty years, until Robert Fulton invented the steamboat and procured an exclusive legislative franchise to navigate his new fangled vessels on the waterways of New York, whereupon the Supreme Court declared the New York statute to be unconstitutional because it interferred with Federal regulation of commerce, Gibbons v. Ogden, 9 Wheat. 1 (1824). Then, through the years, followed the cases which hammered out the rule that where the Federal Government has preempted the field by its own regulations the state cannot regulate. It is a corallary, however, that the mere existence of federal power, while dormant, does not preclude reasonable exercise of state authority. Thusly, a state could construct a dam which barred ships from navigating a small waterway, Willson v. Black Bird Creek Marsh Co., 2 Pet. 245 (1829), because damming and draining the marsh enhanced property values and fostered the health of the inhabitants, which were considerations not repugnant to or in conflict with any federal legislation. Another example is the valid exercise of state police power to require the inspection of small tugs not covered by federal regulations, Kelly v. Washington, 302 U.S. 1 (1937). The particular wants of a locality requiring regulation by a state of the watercraft in its ports and harbors is a valid police regulation, SS New York v. Rea, 18 How. 223 (1855). The State of California, now so zealous in the adequacy of its awards, was permitted to protect the value of the dollar and deter inflation by reducing exhorbitant ferry tolls through the enactment of a statute regulating ferry charges since Congress had not acted on the subject, Wilmington Transportation Co. v. California, 236 U.S. 151. This, of course, differed from the futile attempt of the Port of New Orleans to require a vessel to buy a local occupational license, in addition to the federal license, as a requisite to navigating the waters of Louisiana, which regulation was invalidated because Congress had pre-empted with a federal licensing scheme, Moran v. New Orleans, 112 U.S. 69. A distinction is made, however, in that even a federally licensed vessel may be required to share the monetary cost of benefits which the ves-

sel enjoys within a state, Hulse v. Glover, 119 U.S. 543.

Jurisdiction Over Non-Resident Watercraft

On the question of jurisdiction over non-resident watercraft Congress has not spoken. The subject of the state watercraft statute is not pre-empted, and the statute simply makes the non-resident vessel owner responsible to the citizens of the state whose benefits and laws he enjoys. When the state is thus seeking to protect vital interests, the Supreme Court will be slow to find that the inaction of Congress has shorn the state of the power it would otherwise possess, Kelly v. Washington, 302 U. S. 1 (1937). The opponents of such statutes ignore the rationale of the Supreme Court's decisions which enjoin seeking out conflicts between state and federal regulation where none clearly exists, Mauer v. Hamilton, 309 U.S. 598. See Huron Portland Cement Co. v. Detroit, 362 U. S. 440 (1960).

A second front of attack, perhaps collateral to the first, is the argument advanced by the non-resident defendant that the state watercraft statute is invalid because it allegedly imposes an unreasonable burden on interstate and foreign commerce. An early answer is found in the case of Cooley v. Board of Port Wardens, 12 How. 299 (1851), sustaining the Pennsylvania compulsory local pilot statute, a safety measure. Similarly unladen of such a burden was the Louisiana statute establishing a system of quarantine laws imposed on vessels, held to be a rightful exercise of police power for the protection of health, Morgan v. La., 118 U.S. 455 (1886). The provisions of the New York conditional sales law do not unduly burden vessels in commerce, Stewart v. Rivers, 274 U.S. 614 (1927). In recently validating the Detroit Smoke Abatement ordinance the Supreme Court stated that "in determining whether the state has imposed an undue burden on interstate commerce, it must be borne in mind that the Constitution 'when conferring upon Congress the regulation of commerce, . . . never intended to cut the states from legislating on all subjects relating to the health, life and safety of their citizens, though the legislation might indirectly affect the commerce of the country. Legislation, in a great variety of ways, may effect commerce and persons engaged in it without constituting a regulation of it, within the meaning of the Constitution.' " Huron Cement Co. v. Detroit, 362 U.S. 440, 443 (1960). Most practitioners surprise themselves now and again with a sudden realization that the practical approach to a problem is simpler and more efficacious than the theoretical; and so with this objection about burdening commerce, there is a compelling pragmatic answer. The instrument of commerce is the vessel itself, and the proffered watercraft statute fosters the free movement of vessels, thereby aiding rather than hindering commerce. Instead of having to plaster the vessel with the proverbial writ of seizure in an in rem proceeding, or having to attach another vessel or other property of the non-resident owner,

which are the alternatives where no watercraft statute is on the books, the claimant may relax his trigger finger and simply proceed in personam against the owner under such a statute affording that remedy. This would effectively unburden interstate and foreign commerce.

A third challenge advanced by the non-resident vessel owner, also a ramification of the other arguments, is that the watercraft statutes interfere with a desired uniformity of maritime law. This contention will fall if all states uniformly legislate with regard to non-resident watercraft, as they have done with regard to non-resident motorists using state highways. Until that inevitable happy day, must the conforming states' laws suffer in efficacy, not because of inconsistency or conflict with federal action, but because the subject is one to which uniformity of regulation is required, and hence, whether or not Congress has acted, these minority states are without authority, as was asserted without success in the Minnesota Rate Cases, 230 U.S. 352? The answer is negative; the State law need not be jettisoned. The state local pilotage laws, for example, do no violence to the subject of federal regulation of vessels requiring a uniform, nationwide rule, Cooley v. Board of Port Wardens, 12 How. 299 (1851). Where another Michigan statute, its Civil Rights Act, is involved, barring racial discrimination by providing that excursion vessels cannot exclude certain passengers by refusing to carry them because of color, it was held valid because no uniformity in regulatory commerce, nor national interest or policy, is adversely affected, Rob-Lo Excursion Co. v. Michigan, 233 U.S. 26 (1947). "State regulation, based on the police power, which does not discriminate against interstate commerce or operate to disrupt its required uniformity, may constitutionally stand," Huron Cement Co. v. Detroit, 362 U.S. 440, 448 (1960).

A fourth salvo aimed to wreck the Non-resident Watercraft Statute is the "implied consent" argument based on a fallacious premise. The defendant contends that the state law is predicated on the consent of the non-resident vessel owner to be sued in the state, which consent he gives automatically when he proceeds to use the waterways within that state; but, he hastily adds, it is unconstitutional for any state to exclude a non-resident from navigable waters. To demonstrate the sophistry of this position we must revert to the Non-resident Motorist Statutes.

Non-Resident Motorist Statutes

The errant reasoning stems from language in Pennoyer v. Neff, 95 U.S. 714 (1866), wherein the Supreme Court said that personal service within a state was unnecessary in "cases in which that mode of service may be considered to have been assented to in advance." The Supreme Court utilized the *Pennoyer* phrase to apply in Hess v. Pawloski, 274 U.S. 352, to say that since the state has the power to exclude the non-resident motorish from his highways, a fortiori the state may declare by statute that the use of the highway by the non-resident is the equivalent

of appointing the Secretary of State as agent for service of process. Thus developed the dubious doctrine of implied consent. But it is only fantasy to say that the state may exclude the non-resident motorist from its highways. Actually, a state has no such right to prevent a non-resident from driving his vehicle on its highways, not even in the extreme case where the motorist is a multiple offender in ignoring the state's highway laws, Castle v. Hayes, 75 S. Ct. 191. Realistically, jurisdiction does not at all rest on this fictitious consent of the non-resident motorist; "the defendant may protest to high heaven his unwillingness to be sued and it avails him not", Olberding v. I.C. Ry. Co., 146 U.S. 338. See also 39 Harv. Law Rev. 563.

The constitutionality of a non-resident motorist statute rests not on an implied consent to be sued, but rather on states' rights to exercise police power for the protection of its citizens and others within its borders, "by providing a forum in which actions arising out of accidents on its highways may be litigated," Tardiff v. Bank Line, 127 F. Supp. 945 (E.D. La., 1954).

Motor Vehicles-Watercraft

There is analogy between motor vehicles and watercraft. Its police power is not left behind when a state takes to water. "There is no doubt that the state's power to control the use of its navigable waters is equal to its power to control its highways," Franklin v. Tomlinson Fleet, 158 F. Supp. 550 (N.D. Ill., 1957). As we have seen, where the wants of the locality require it, a state may regulate watercraft in its ports and harbors, S.S. New York v. Rea, 18 How. 223 (1855). If a state may protect its citizens from the blowing of flues in its harbors, and from disease by quarantine measures, and from fire hazards and explosives, by the exercise of police power, then why cannot the state provide a remedy to enforce the rights it has created and to redress wrongdoings by affording its citizens a means and place to sue the itinerant vessel owner? The answers are provided by the federal courts in Louisiana. No valid distinction can be drawn between a non-resident motorist statute and non-resident vessel owner statute. The state's right and duty to provide protection for persons and property on its navigable waters are no less important than its rights and duty to provide like protection for persons on its highways, Tardiff v. Bank Line, 127 F. Supp. 945, 948 (E.D. La., 1954).

State Highways and Navigable Water Courses

"It is argued by defendants that the hazards incident to the operation of motor vehicles upon the highways are such as to justify, in fact to compel, the exercise by the states of their police power to insure safety for all users, but that no such compelling consideration exists in the operation of watercraft. As to the claimed distinction between the state owned highways and navigable water courses, it is not believed that the difference in ownership, as between the states and the Government makes any difference. The latter are arteries of travel and commerce

whose users within the borders of the states enjoy the same police protection as those upon the highways and as pointed out by the complainant, the dangers of collisions, explosions and damage to other craft, wharves and similar short structures bordering thereon, are serious though perhaps not as numerous as accidents upon the highways. The difference therefore is one only of degree which furnishes no ground for holding the present (non-resident watercraft) Act unconstitutional. The states have a wide discretion to determine when and in what circumstances they will exercise their police power and the courts will not interfere except in cases of clear and arbitrary abuse. 16 C.J.S., Constitutional Law, Sec. 175, p. 541 et seq.; Sugg v. Hendrix, 5 Vir., 142 F. 2d 740. It is believed therefore that the assailed statute is constitutional." Goltzman v. Rougeot, 122 F. Supp. 700, 702 (W.D. La., 1954).

Admiralty and Maritime Jurisdiction

Finally, the opponent of the watercraft statute urges that it is in conflict with the constitutional grant of admiralty and maritime jurisdiction in Article 3, Section 2, and that it also conflicts with Supreme Court General Admiralty Rule 2 which provides that jurisdiction in personam may be obtained over a vessel owner by seizure of the vessel in rem or by proceeding in personam against the vessel owner with a writ of foreign attachment involving the seizure of property other than the offending vessel, 29 Tulane Law Review III, 121. To the contrary, there is no conflict between these procedural laws and regulations, state or federal. One supplements the other. The state statute takes care of the hiatus, the case wherein neither the non-resident defendant nor any of his property can be found at the locus delicti. This is not a conflict under the rule of Pope & Talbot v. Hawn, 346 U.S. 406 (1953). The modern view is that state law may supplement the federal law in the maritime field, Cushing v. Maryland Casualty Co., 347 U.S. 409. Generally, state statutes are constitutional in providing that when a foreign corporation, not authorized to do business in a state, in fact does business therein, it shall be presumed to designate the Secretary of State as agent for service of process in actions arising out of the corporation's activities within a state, Florio v. Power Tool Corp., 248 F. 2d 367 (U.S.C.A., 3rd 1957).

Conclusion

In conclusion, let us affirmatively consider the advantages of the Non-resident Watercraft Statute, which are succinct, precise and clear. As is well known to every court, and to every litigant who is entitled to his day in court and to all counsel at the bar, the interests of justice are best served by litigating a cause in the forum where the accident occurred or the cause of action arose. There the matter may be handled most expeditiously and least expensively to all concerned, excepting, perhaps, the defendant cast in judgment. Witnesses and the factual proof, the rudiments of every lawsuit, are

more readily available and most effective on the local scene, for both sides. Having created the right, the state should provide the remedy. It is an injustice that the claimant should have to pursue the tortfeasor to some foreign forum, which far outweighs any inconvenience which the non-resident tortfeasor may experience in having to respond directly for his tort at the place it was committed. If the plaintiff must wait until the non-resident defendant returns to the scene of his deed, the passage of time may bar the action. Be it boat, barge, ship or other watercraft, the marine flavor of the instrumentality or vessel should give its owner or operator no license to float away from his responsibility. The premium would then be placed on due care rather than on escape. And proctors will fulfill their mission, which is to handle the adjudication of law matters, from whichever side of the local counsel table they may advocate.

There is need for this type of legislation. It is your duty to make your legislators aware of this need. Although there should be no resistance in the legislative hall regarding the enactment of such a statute which operates to the advantage and benefit of the residents of your state, you should propose it aggressively. Vigor and promptness will insure early uniformity. That will be just.

ABA HOLDS REGIONAL MEETING IN HOUSTON NOV. 9-12, 1960

The American Bar Association has announced plans for a Southwest Regional Meeting in Houston, Texas, from November 9th through November 12th, 1960, to include the states of Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

The Shamrock-Hilton Hotel will be headquarters for the meeting. Among those in attendance will be John D. Randall, President of the American Bar Association; Whitney North Seymour, President-Elect; John C. Satterfield, President-Elect Nominee; Sylvester C. Smith, Jr., Chairman of the House of Delegates.

The meeting will commence on Wednesday afternoon, November 9th, at two p.m., with a General Assembly Session. There will be a reception following the General Assembly, and that evening hospitality will be furnished in the homes and clubs of Houston attorneys to all pre-registered lawyers and their ladies.

There will be a number of outstanding section programs on Thursday, Friday and Saturday morning. A western style barbecue at a ranch near Houston will be the entertainment for Thursday evening. The customary Friday evening banquet will be addressed by an outstanding national figure.

At the conclusion of the meeting on Saturday, transportation will be furnished to the Rice-Texas A & M football game. There will also be excursions available to Mexico, the magic Rio Grande and nearby deep sea fishing resorts.

Send your $10 registration fee now to Wm. N. Bonner, General Chairman, 1628 Tennessee Building, Houston 2, Texas.

Since our state is one of those participating in the meeting, your support is needed to make attendance representative of our Bar Association.

Law-Engineering Seminar

By Edward A. McLellan
President, Louisiana Engineering Society

Positive results were accomplished through the first Law-Engineering Seminar, jointly sponsored by the Louisiana State Bar Association and the Louisiana Engineering Society, at Tulane University, June 10, 1960.

Approximately 125 engineers, attorneys, architects, engineering and law students attended the all-day program.

The vice-president of and representing the Louisiana State Bar Association, Mr. A. R. Christovich told the group that this seminar could well set the pattern for a national program of engineer-attorney information exchange.

He likened it to a medico-legal cooperative effort that had developed successfully on a national basis, and urged that more programs of this nature be planned to permit a useful exchange of ideas among our two professional groups.

Louisiana engineers have come into an increasing need for legal advice in recent years as individuals; problems have also arisen concerning the engineering statute of the state.

Speakers at Seminar

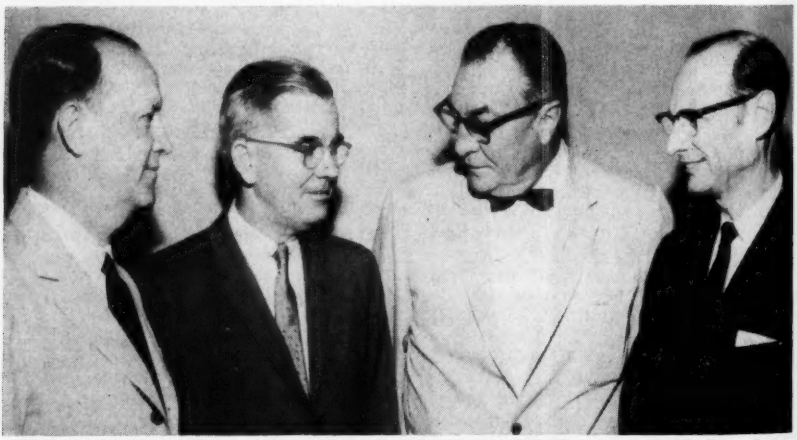
Speakers at the seminar included Wood Brown, counsel for the Louisiana State Board of Registration for Professional Engineers & Land Surveyors; Frank W. Macdonald, executive secretary of the State Board, charged with administration of the state engineering law; Alvin B. Rubin, Baton Rouge attorney; Bernard Marcus and Harry Kelleher, New Orleans attorneys.

Messages were received from top national law and engineering officers.

Paul H. Robbins, New York, executive director of the National Society of Professional Engineers, wired:

"Best wishes for most successful law-engineering seminar. Such inter-professional conferences do much to improve understanding between our professional groups. Congratulations to the Louisiana Engineering Society and the Louisiana State Bar Association for sponsoring this joint venture."

Wrote Joseph D. Stecher, Chicago, executive director, American Bar Association: "Your Society and the Louisiana State Bar Association are to be congratulated on arranging this seminar, and I am confident it will prove very beneficial to both professions."



Principals in a law and engineering seminar jointly sponsored by the Louisiana State Bar Association and the Louisiana Engineering Society June 10, 1960, at Tulane University were (from left), Dean Ray Forrester of the Tulane Law School; Edward A. McLellan, LES president; A. R. Christovich, vice-president, LSBA, and Dean Lee H. Johnson of the Tulane School of Engineering.

The Place of Precedent in Decisions and the Problems of Conflicting Decisions Among Circuits

by Hon. H. W. Ayres

A precedent, within the rule of stare decisis, has been defined as an adjudged case or decision of a court of justice, considered as furnishing an example or authority for an identical, or similar, case afterward arising on a similar question of law.

However, to establish the precedent sufficiently authoritatively to protect rights acquired during its continuance, it is usually required there be a series of decisions. In applying this rule, it is not incumbent on the court to extend the scope of previous decisions, especially where it is convinced that error in principle might intervene. Neither will a doubtful doctrine be extended by resort to analogy. Nor does it necessarily follow that a rule established by a line of decisions, on a given question, must be carried to its logical results where the parties occupy different relations to the subject matter and to each other, nor that it be extended by implication.

Application of Rule of Stare Decisis

However, the rule of stare decisis is frequently applied to the principle which has been enunciated in a single decision which is so definite in its terms and so generally acquiesced in and acted on that it has come to be recognized as the accepted rule on a given question. This has particular application to a decision by a court of last resort construing a statute, which construction then is said to constitute a part of the statute.

A previous opinion deciding contentions identical in facts, law, and application with those in an instant case should be followed on the principle of stare decisis. However, a single decision is not necessarily binding under the rule, especially where it has not been cited for many years. Nor will the rule be applied where the decision is in conflict with prior decisions, is not supported by reason or authority, or is clearly erroneous.

But, however, it is a well-established general rule that where a principle of law has become settled by a series of decisions, it is binding on the courts and should be followed in similar cases, as the principle so settled forms a precedent for the guidance of the courts in similar cases. The reason for the rule is founded largely on considerations of expediency and sound principles of public policy to preserve the harmony and stability of the law and to make as steadfast

---

Honorable H. W. Ayres is an Associate Judge of the Second Circuit Court of Appeals. This article was presented at a meeting of the Court of Appeal judges in Baton Rouge, held April 8 and 9, 1960.

as possible judicially-declared principles affecting the rights of property.

The rule is thus a salutary one, entitled to great weight, and ordinarily should be strictly adhered to, especially where a different ruling would work an injustice to some of the litigants; and the rule may be upheld, even though the court would decide otherwise, were the question a new one, or where equitable considerations might suggest a different rule. Thus, a court is not concerned with what the law ought to be, but its sole function is to declare what the law, applicable to the facts of the case, is.

The stare decisis rule is not universally applicable to all situations without exception, and should not be applied to the extent of perpetuating error or where some good reason exists for departing therefrom. However, even when erroneous, final decisions of the courts of last resort, which have become established rules of property, should ordinarily be adhered to. Therefore, it is said that where judicial decisions may be fairly presumed to have entered into the business transactions of a country and have become established as rules of property, it is the duty of a court, on the principle of stare decisis, to adhere to such decisions without regard to how it might be inclined to decide if the question were new.

This doctrine has particular application to decisions relating to real property.

Authority to Overrule

However, a court generally has the power, and it is its duty, to overrule or modify its former decisions which, in its opinion, are erroneous or wrongful, even in the absence of legislative changes in the law as originally considered. However, if a rule of law well established by decisions is erroneous, it is not to be lightly set aside by the courts, but its abandonment or change should be brought about by legislative action. Thus, the decisions of a court of last resort are to be regarded as law and should be followed by inferior courts, whatever the view of the latter may be as to their correctness, until they have been reversed or overruled.

The rule, of course, is without application in a case which may be differentiated or distinguished.

The statements, in opinions constituting the basic reasons for the conclusions reached, are not generally said to constitute precedents. While the opinion announces the decision of the court, it does not necessarily follow that each member has arrived at his conclusion by the same reasoning or on the same principles.

Conflicts in Decisions of Inferior Appellate Courts

The decisions of intermediate appellate courts, such as the Courts of Appeal of this State, should be followed under the stare decisis rule until reversed or overruled by the court of last resort. Where, however, there is a conflict among the circuits, an inferior court should follow the decision of its own circuit. But, a court of one circuit is not always bound, under the rule, to follow the decisions of another court whose authority is

Continued on Page 151

Shreveport Legal Secretaries Organize, Publish

by Grace C. Zeigler

In the early part of 1959, a survey revealed that seventy-five Shreveport legal secretaries were interested in becoming charter members of the first chapter of National Association of Legal Secretaries to be formed in Louisiana.

Carrying out the custom of all chapters of NALS in cooperating completely with local Bar Associations, a group of interested legal secretaries called on the President of the Shreveport Bar Association and explained the program of NALS and asked him to secure the endorsement of the local Bar Association before a chapter was organized. Upon his request, copies of the National bylaws were obtained for study by the Executive Council of the Shreveport Bar Association. After a study of the NALS bylaws and the presentation of the NALS Program by Shreveport Legal Secretaries, the Executive Council unanimously consented to and approved the formation of a local chapter of NALS. A letter of endorsement was issued to the Shreveport Legal Secretaries Association and the offer of assistance in an advisory capacity was tendered by the Executive Council. Shortly thereafter, under the leadership of the author, a Shreveport legal secretary; Miss Clara Lagow, National President of Fort Worth, Texas; and Mrs. Anita Leigh, National Third Vice-President of St. Louis, Missouri, the Shreveport Legal Secretaries Association was organized and granted its charter as a member of NALS on June 1, 1959.

Legal Secretary's Handbook

Immediately after the formation of the Shreveport Chapter, the members of the Shreveport Legal Secretaries Association began the compilation of the Legal Secretary's Handbook (Louisiana.) After some fourteen months of "after 5:00 and weekend work", the book is nearing completion and is scheduled to go to press October 1, 1960. It is to be a beautiful looseleaf book, printed on legal size paper, displaying legal instruments in the exact form as actually produced in the law offices of Shreveport, Louisiana. The book has been compiled by experienced, active legal secretaries and each chapter pertaining to Louisiana law carries the approval of a practicing Shreveport attorney. This Handbook is the third of its kind to be compiled by Legal Secretaries in the United States (the other states being California and Texas); and has been accepted as a textbook by all leading business schools of Shreveport, Louisiana. Twenty-five M. L. Bath printed forms with all blanks filled out will be included in the book in addition to approximately 350 pages covering the following subjects:

Orientation of a Legal Secretary; Legal Spelling and Shorthand Outlines; Latin Words and Phrases, Legal Words and Phrases and Definitions of Legal Terms Used Most Frequently; Use of Law Books; Louisiana Notarial

Law; Fees and Court Costs; Contracts; Organization of Louisiana Corporations; The Courts (City, State and Federal); General Civil Pleadings; Domestic Relations (Divorce); Adoptions; Tutorship of Minors, Probate (Wills, Successions, etc.); Oil and Gas Chapter; Miscellaneous Forms and Acknowledgments (Louisiana, Texas, Arkansas and Mississippi).

The First Edition of the Handbook is being published on the "Advance Order System" at the price of $10.25 (state tax included) and those desiring a copy of same may send in their orders to Shreveport Legal Secretaries Association, P. O. Box 756, Shreveport, Louisiana.

As all business school directors of Shreveport have stated that they have been unable to secure adequate material for the teaching of Legal Secretarial training from major publishing houses, they have accepted this book as a textbook. Norton Business College, Shreveport, has expressed its appreciation by setting up a perpetual scholarship in the name of Shreveport Legal Secretaries Association to help worthy, needy students obtain a legal secretarial training course, and in so doing has given the Shreveport Chapter the wonderful opportunity of helping train young legal secretaries to go into the legal secretarial field, which is one of the main aims and purposes of NALS.

Code of Ethics

The motto of the National Association of Legal Secretaries is "We Serve" and that is the theme that guides the entire organization. Each member vows to keep the following Code of Ethics:

The first duty of a legal secretary is loyalty to her employer.

It shall be the duty of every legal secretary to at all times maintain a high standard of courtesy in all contacts with law offices, clients, courts and any and all persons.

It shall be unethical for any legal secretary to violate any statute now in effect or to be enacted governing privileged communications.

It shall be unethical for any secretary or employee of any

Grace C. Zeigler has been a legal secretary for twenty-five years and is associated with a Shreveport, Louisiana, law firm. She was responsible for the organization of the Shreveport Chapter of National Association of Legal Secretaries and served as its first President and Louisiana State Director.

law office to divulge the contents of any documents in the possession of her employer without first having obtained the consent of said employer, or to discuss, maliciously or otherwise, with any person, matters of a confidential nature knowledge of which may come to her by virtue of her employment.

It shall be the duty of every legal secretary to maintain harmonious cooperation with her associates.

History of the Legal Secretaries Association

The first legal secretaries association was organized in Long Beach, California, over thirty years ago by an inexperienced legal secretary (Eula Mae Smith, now Jett) who felt the need of help that older, experienced legal secretaries could give her. This proved so helpful to both the secretaries and their employers that similar organizations were formed throughout California and in other states. Finally, on July 5, 1950, the National Association of Legal Secretaries was incorporated under the laws of the State of California (later to become International in 1959) and chapters have been chartered in almost every state as well as in Puerto Rico, England and Japan. The membership of NALS now stands at 167 Chapters with over 6,000 members.

The National Association of Legal Secretaries is interested in helping legal secretaries all over the world to form new chapters in their own cities, to offer additional free training, to raise the standards and status of the legal secretary, and to make her of greater value to her employer. The association **is not a union,** and the members never discuss any client's business, wages and hours, or similar subjects. As the attorney enjoys a confidential relationship with his client, so his assistant is also subjected to special requirements of discretion. Any group that works so closely within a profession has to acquire professional standards and to consider itself as having a professional standing.

Aims and Purposes

To unite into one international organization all persons employed in work of a legal nature, to the end that ideas may be exchanged and, through this exchange, knowledge may be increased;

To organize and charter local chapters of legal secretaries associations throughout the United States, its territories, possessions and in all countries throughout the world;

To encourage the growth of legal secretaries associations and augment the education of its members;

To promote good will and harmony among the various associations and to provide a medium through which any member or association may at any time present suggestions or inquiries in the interest of the mutual benefit of legal secretaries;

To cooperate with the various Bar Associations, judges and attor-

neys in promoting a high order of professional standards and ethics in the legal profession;

To present scholarships to worthy students;

To foster training programs for young women desiring to become legal secretaries, through a prescribed course of study familiarizing them with legal terms, forms and procedures;

To sponsor in each state a "Legal Secretary's Handbook" containing general procedural information, pleadings and jurisdictional information, for use in law offices, law libraries and schools.

To encourage social activities among members;

To have all members subscribe to the Code of Ethics, which was given above.

Formation of New Chapters of NALS

Although many letters have been written to legal secretaries and attorneys over the State of Louisiana during the past year in the interest of starting chapters of NALS in other cities of our great State, at present the Shreveport Chapter remains the only chapter in the State. It is the sincere desire that through the publication of the Legal Secretary's Handbook (Louisiana) and the statewide announcement by the Louisiana Bar Journal of our activities that many legal secretaries and attorneys will give their support toward beginning new chapters in their areas.

Those desiring information and materials to start new chapters should write to Mrs. Ila Volentine, 906 Petroleum Tower, Shreveport, Louisiana.

The Job the Lawyers Shirk

By Harriet F. Pilpel

Their earnings and prestige are both shrinking—primarily because they have let other professions take over "one of their most important functions."

"Oh, I'm just a lawyer," said the man in the pin-stripe suit in an embarrassed tone. Standing next to him was a well-known surgeon, not dressed in white but exuding, none the less, the aura of our twentieth-century hero, the Man of Science.

Now I'm a lawyer myself—and rather proud of it—and I don't like belonging to an apologetic profession. But that's what we're becoming. Most of us, of course, can still laugh off such epithets as "shyster" and "mouthpiece." After all, the venal attorney has been a proper butt of satire since the days of Dickens and Gilbert and Sullivan.

But it is far from comforting to find a nationally syndicated columnist christening a mythical law firm "Avaricious, Dilatory, Flyspeck, and Stupid" and then arguing, in several hundred sharp words, that most lawyers are just that.

Then too, many of us are bothered by a nagging suspicion that the lawyer, like any workman, is worthy of his hire and that earnings are a significant, if crude, gauge of public esteem. Time was—up to 1940 in fact—when the average lawyer earned more than the average doctor. But today the medicos are economically ahead by 50 per cent, and the proportion of national income spent for legal services is about a third of what it was a quarter of a century ago.

"The biggest legal problem in the country today," said Erle Stanley Gardner at last year's American Bar Association Convention," is the failure of people to understand the function of lawyers and to respect the legal profession."

As a countermove, the American Bar Association set up a committee whose job is to persuade TV and film producers and other mass-entertainment purveyors to present lawyers in an attractive light. I wish them success, of course, but I am afraid that something beyond a glossy public relations "sell" is needed. For the trouble lies deeper. Lawyers, I think, belong to a profession whose earnings and prestige are dwindling because they are no longer fulfilling one of their most important functions. As Dean Erwin N. Griswold of Harvard Law School has put it, they are losing sight of "the humble human relationships which law is intended to serve and with which the lawyer must deal." Too often they forget that a counselor-at-law is supposed to be more than a legal technician: he is also an adviser to human beings with human problems. His prototype from an earlier and more benign era is the friendly British family solicitor and our own compassionate, perceptive Mr. Tutt. These gentlemen

were general practitioners—"family lawyers."

In their place, the twentieth century has produced specialists who earn their biggest fees in such impersonal affairs as corporate finance, capital-gains transactions, and real estate sales. These technicians have little interest in human relations. They are largely ignorant and often contemptuous of the insights and skills modern psychology has developed. Narrow legal specialists themselves, they would like to relegate to other specialists —the psychiatrists, psychologists, social workers, and marriage counselors—the human problems with which lawyers have traditionally dealt.

Most lawyers will concede the utility of psychological experts in situations where there is no choice but to use them, such as insanity pleas in criminal cases, will contests where the testator's competence is at issue, or workmen's compensation or negligence cases with psychosomatic overtones. Many attorneys will admit too that human —as well as legal—factors weigh heavily in certain fields, notably family, criminal, and negligence law (which leaders of the bar generally avoid as much as possible). But few will agree that human relations pervade virtually all of their work. Yet it is a fact that the average lawyer spends most of his time advising and persuading human beings—his own clients and the people on the other side of the table. And in almost every case non-legal considerations are involved calling for understanding of human motives and behavior.

This is most obvious in a field of law which is not popular with the most successful leaders of the bar —family law. Corporate reorganization is a lot more respected as a legal specialty than family reorganization. Yet even corporation executives get married, have children, make wills, contemplate divorce—and may demand that their corporation lawyers help solve these problems. Indeed, the lawyer is often the only objective third party outside his circle of family and friends to whom such a person goes for advice. What kind of help is he likely to get?

Lawyers in the Dark

"The most effective realization of the law's aims often takes place in the attorney's office," said a recent report on professional responsibility. "Litigation is forestalled by anticipating its outcome. The lawyer's quiet counsel takes the place of public force."

I was reminded of this admirable statement not long ago when I was sitting in the anteroom of a lawyer

"Flexibility, tact, intuition, understanding of people are as valuable in the practice of law as the so-called legal logic," wrote Judge Jerome Frank fifteen years ago. "This leads to the conclusion, startling to many, that feminine attributes rather than masculine are important in the high task of administering justice." This thesis has not been put to any large-scale test, for less than 3 per cent of the country's attorneys and judges are women. One of them is Harriet F. Pilpel, who graduated from Columbia Law School in 1936, eight years after the sex barrier was lowered. (Last to succumb was Harvard, which admitted its first woman law student in 1950.) Now a partner in a leading New York firm, Mrs. Pilpel holds no special brief for feminine insights. She does, however, feel that her profession needs to be reminded that clients have human as well as legal problems.

whose secretary apologized for his lateness. He had been delayed, she said, by a warring married couple whom he was "reconciling" in his office. As I waited, I couldn't help overhearing the dialogue in the next room. Voices grew louder and louder. Finally the lawyer's rang out above the others:

"Now, damn it, shut up. I'm telling you—you love each other."

This was an intelligent attorney. And even though their tone might be more subdued, I suspect that a good many other lawyers would have no more refined technique of reconciliation at their command. Small wonder, then, that most of them wish their clients would take their wrecked marriages and family feuds elsewhere. Sometimes, if the client can afford it, the attorney can minimize the effect of his own ineptness by referring such problems to psychiatrists or other specialists. And certainly there are few marital cases which would not benefit from specialized professional guidance. But it takes insight—of a non-legal variety—on the lawyer's part to know how to persuade the client to accept such help and above all to realize when he is beyond his own depth in the troubled waters of human tensions and complexities.

For example, I recall one apparently hopeless case where the wife's lawyer and I, representing the husband, were asked on one day to work out details of a reconciliation and on the next to "throw the book" at each other's clients in a "lawsuit." There were children, which argued, of course, for keeping the couple together. On the other hand, the couple was at sword's point—the police had been called after the husband had pushed his wife downstairs. Even worse, the two children were caught in the conflict; the daughter sided with her father and refused to talk to her mother or to eat food she had cooked while the son was so terrified of his father that he once ran in front of a moving car to avoid having to talk to him.

This couple could afford a psychiatrist and agreed to consult one. After a series of psychological tests he reported that in his opinion and the opinion of the psychologist who had administered the tests the mother and father could never successfully bridge the gap between them—the man was highly intelligent but emotionally cold, untouched by feeling; the woman was intuitive, warm, with a low IQ. Thus guided, their lawyers after so much fruitless persuasion abandoned further efforts at a reconciliation, which neither client really wanted, and instead worked out the best possible separation agreement.

But many couples can barely afford an attorney, let alone a psychiatrist or a psychologist. Then the lawyer must "cope," just as he did in the old days. This his casebook legal education rarely equips him to do, for few marital cases are clear-cut, black-and-white problems. For instance, a few months ago a couple came to my office who said they just wanted a divorce without any fuss. Would I please do the necessary? It would have been simple to proceed like a legal slot machine, for the required grounds for divorce in New York —adultery—were established. But somehow I felt my function in-

volved something more. So I asked what they thought the basic trouble was.

The husband had a ready answer. "My wife and my father hate each other," he said. "Since I have to choose between them, I've chosen my father because I've known him much longer and he's done and can do so much for me."

Obviously, this was only the top layer of deeper troubles that called for skilled psychological probing. But the couple refused to consult a marriage counselor or other expert on the grounds that they had neither the money nor time. Besides, their minds were made up.

Thus, as happens in so many marriage and family difficulties, the lawyer became the only outside adviser who had anything to do with the case. And he does the best he can with whatever knowledge of human beings he has gleaned over the years. In most cases, if he stops to think about it at all, he wishes it had been more purposeful and scientific. For just about every time that a lawyer advises a client he is not merely practicing law; he is also, whether he knows it or not, practicing psychology as well.

Human Hazards

This is true not merely in domestic relations or criminal law. It applies equally to such bread-and-butter fields as taxation, business law, and estate planning.

Take the last, for example. The client often says he just wants what everybody else wants — to save taxes and to leave his wife fully provided for "with no strings attached." However, he must be sure that none of his money goes to his second son who, he says, is a "wastrel" though his wife doesn't realize how "spoiled" the boy is. Also, the whole thing must be set up (and here he laughs ruefully) so that not one cent goes to his wife's second husband (he's sure she'll have one). But he doesn't want a trust — it's too expensive (though it's p r o b a b l y the only way he can achieve his p u r p o s e s). And, of course, he wants the full benefit of something he's heard of on the golf course called "the marital deduction." He doesn't know just what it is but gathers that it prevents Uncle Sam from getting one penny more than necessary. Although he may have memorized books on estate p l a n n i n g, the lawyer who drafts this will cannot avoid making judgments and giving advice that have nothing to do with the law.

The same thing happens in business law. For example, there were five young men who were purchasing a going business. I suggested — and they agreed — that their accountant should look at the seller's books and that, in order to decide on a fair price, full records over several years should be disclosed. I outlined the usual legal provisions and with their approval drew up a contract of sale. Everything went according to the book until we met with the seller and *his* attorney. At that point the seller said jovially:

"Boys, you know you can trust me. All I want is a plain ordinary bill of sale, like I was selling my car, and some assurance that I'll get my money. I'm not showing you or anyone else — not even your lawyer or your accountant—my books or my figures or my records and I'm not giving you any safeguards

or whatever you call 'em. Take it or leave it."

Afterward "the boys" expected me, as their lawyer, to discuss with them whether they should "take it or leave it." It would have been futile to insist that this was not a question for a lawyer. After all, why do you need a lawyer on a deal anyway? Even though it had nothing to do with the law, they wanted my estimate of the seller — and of the situation. Whether I chose to give it or not, my course was not plotted by anything I had ever read in a text on business law.

Of the many other extra-legal problems with which a lawyer must wrestle the most vexing is the perennial question: Should the client settle the case or go to court? To make up his mind the lawyer tries to guess how his client and his adversary will hold up in court — and what a judge is likely to decide, not only on the basis of the law but also by the impression the litigants make and the way the case is presented. If a settlement is offered and the lawyer advises against it, how will the client feel if he then loses in court, gets nothing, and has to pay his opponent's counsel fees as well as his own (as can happen in some cases)? On the other hand, if the lawyer urges him to settle, and the client accepts less than he feels he's entitled to (which is what a settlement always is) will he think the lawyer gave him bad advice?

All these are highly iffy, nonlegal questions, calling for an estimate of human beings. There are no simple rules to follow. I had a hard time last year trying to demonstrate this to a client who was determined to calculate the precise odds in favor of winning if we went to trial. If it was 60 per cent or more, he said, he didn't want to settle. If it was less he would. Nothing would convince him that law is not an exact science and that percentages were meaningless as applied to court cases.

In tax matters too, I've found clients often want to know the worst that can happen if they follow one course rather than another: for example, should a certain sum be regarded as capital gain or ordinary income? Often, after hearing all the pros and cons, the client takes the lawyer's advice that he may well be entitled to the lesser capital-gains tax. But if, in due course, the Treasury decides the sum was ordinary income and that an additional tax (plus interest and penalties) must be paid, the lawyer is likely to be blamed for not having guaranteed against this unpleasant result. The lawyer comes to realize that the same kind of tax advice just doesn't fit every client even though the facts are identical. A higher tax bill may be well worth the price for people who would prefer it to the emotional strain of worrying about what the tax authorities may do or the shock of having later to pay a large additional sum. Lawyers, in other words, need to know their clients as well as the law.

Sometimes judging a client correctly is a matter of self-preservation. Crackpots and psychopathic personalities are often litigious. Few of us will be taken in by the man who is peddling shares in Brooklyn Bridge or the Lincoln Memorial but we are extraordinarily naive when faced with an earnest person, claiming rights and

interests, who wants legal assistance.

Recently I met a most plausible man who had received a substantial advance from a publisher for a biography of a famous political figure to whose life story he claimed to have exclusive rights. At his request, I started working on a book contract for him. After several sessions on the contract, in which my client proved extremely difficult, I began to wonder — and then to make inquiries. Finally I called the subject of the projected book. He had not, it turned out, given the author any right whatever to do the book and would, in fact, do everything he could to prevent his writing it, including, if necessary, suing me. He suggested I talk with my client's psychiatrist. (I hadn't known the client had one though by this time I realized he should.) Subsequently I found out that my "author" made a career of claiming exclusive rights to do the biographies of famous people. A greater awareness of psychological factors might well have enabled me to understand s o o n e r what my "client" was doing.

Some years ago when there was a conference of the "counseling professions" in New York, it didn't occur to anyone to invite lawyers. Maybe very few would have accepted, for we are virtually the only profession dealing with people that makes no attempt to learn anything about them. There is, in fact, almost no cross-fertilization between lawyers and experts in human relations — psychiatrists, psychologists, sociologists, social workers, and the guidance specialists. Yet these latter groups are constantly exchanging knowledge with each other.

The majority of lawyers believe, I think, that they need no education in human relations. Experience, they will assure you, is the best, and the only real teacher. And it is true that a seasoned practitioner may come to know almost as much about human beings after years of practice as he knew about legal precedents when he graduated from law school. Other attorneys argue that, even if you could teach lawyers something a b o u t people and their motivations, you shouldn't. Let's stick to our last, they say. Why clutter up the law-school curriculum, as a few "progressive" schools are doing, with talk about people? A little knowledge about psychology can be a very dangerous thing, they maintain. And some psychiatrists agree. (But, of course, they are o f t e n leery, too, about psychologists, social workers, marriage counselors, or anyone else who threatens their monopoly.)

Generally speaking, other professions take a much more hopeful view of the uses of psychology in their own work than the lawyers do. Divinity courses everywhere are training the clergy in pastoral counseling. Social w o r k e r s are taught above all that understanding what makes the client tick is a precondition of helping him. And at many medical schools, the would-be general practitioner must take background courses in psychiatry. Even the lawyer's best clients — the businessmen — have psychologists on their staffs, use psychological tests for placement and problem detection, and send their executives to seminars at such places as the Meninger Clinic to learn how to deal with personnel prob-

lems. (One of the Menninger people told me the clinic has persuaded many executives that not equipment but human failures must be dealt with to curb Accidents as well as the other two A's, Alcoholism and Absenteeism.)

Changing the Law Schools

Despite the widespread apathy of the Bar, there are, however, a few hopeful omens. At the Yale Law School, Professors Harold Lasswell, Richard Donnelly, and several others are working on a special project in "Law and Psychiatry" which should cast light on the question of how lawyers can become better counselors. A group at the University of Pennsylvania Law School is studying the relationship and desirable interchange between psychology and law. At Temple University, the Law and Medical Schools have been collaborating in a promising venture, which involves the presence of a psychiatrist as a passive observer at interviews between lawyer and client. At Northwestern University Law School, Professor Howard Sacks is offering some experimental courses in human personality and behavior from the standpoint of the lawyer.

Among practicing lawyers, too, there are signs here and there that the legal profession is beginning to recognize that a science of psychology exists and may be helpful. The New York County Lawyers Association has appointed a special committee which has held some fruitful public meetings on "Psychiatry and Psychology as Tools for Lawyers." In New York City also a series of experimental discussions between trained psychotherapists and practicing lawyers has taken place at the Postgraduate Center for Psychotherapy. The Lawyers Club of Los Angeles County last year announced a seminar for lawyers called "Developing Effective Professional Relations." The prospectus includes such topics as: "Lawyers Counsel People," "Lawyers Interrogate and Interview People," "Lawyers Resolve Conflict and Negotiate Agreements Between People," and "Lawyers Work in Groups Either as Members or Leaders."

At the University of California a weekend workshop was held on "Sensitivity Training for the Professions." It was open to lawyers, as well as "members of other professions who are engaged primarily in client-type relationships." Also (and to my knowledge for the first time) a group has been organized in New York for the express purpose of making expert psychiatric and psychological consultation services available specifically to the legal profession in their day-to-day activities.

These recent developments are, however, just ripples on the broad surface of legal education today. There is no general indication that our profession recognizes the need once again to accept the role of counselor-at-law instead of just lawyer. That role, I think, should be redefined in twentieth-century terms. Leaders of the bar should acknowledge, individually and through their associations, that in an age of anxiety lawyers should know how and when to use expert psychological help and should themselves know something about the insights of modern psychology in dealing with their clients. The

law schools should acknowledge that human personality and motivation and the problems and techniques of interviewing and counseling are also involved in the practice of law. Even more important than formal instruction is the need for an awareness of psychological factors to permeate the whole curriculum and influence the presentation of all teachers in all courses.

We must learn from the outset, in other words, that the proper study of law includes man — particularly the man we call client. And he too can play a part in changing the pattern. When he needs an attorney he has a right, I think, to inquire not only into his qualifications as a legal chess player but also his wisdom and training as a counselor in human relations. Lawyers need to be forcefully reminded that they must, at all times, take into account the nature of the specific individuals whom they are advising on the law. Only if this responsibility is fully accepted can the bar expect to maintain a position of continuing honor as a respected and learned profession.

Meet Your Board of Governors . . .

Michael J. Molony, Jr., is a delegate to the Board of Governors from the First and Second Congressional Districts, having been elected for the term 1959-1961. He served as Ex-Officio member in his capacity as Secretary-Treasurer of the Association in 1957-1958, and again in 1958-1959.

Born in New Orleans on September 2, 1922, Mr. Molony attended Tulane University where he received his LLB in 1950. He was a member of the Phi Delta Phi fraternity.

During 1942-1946 he served in the U. S. Air Force, in the Pacific Theatre of Operations.

He was a partner in the firm of Molony and Baldwin in 1950; he became associated with the firm of Jones, Flanders, Waechter and Walker in 1951, and has been a partner in the firm of Jones, Walker, Waechter, Poitevant and Denegre since 1956.

Mr. Molony is presently a member of the Louisiana State, New Orleans and American Bar Associations. He holds membership in the Federation of Insurance Counsel, American Judicature Society, International House, Southern Institute of Management and Sigma Chi Fraternity, of which he served as President in 1956. Since 1953 he has been an instructor in Labor Law at Tulane University-University College, and Lecturer, Tulane University Medical School (Legal Medicine.) He has been Assistant Secretary, Ex-Officio member, of the Council, Louisiana State Law Institute since 1958. He is also a member of the Pickwick Club, Southern Yacht Club and Timberlane Country Club.

MICHAEL J. MOLONY, JR.

He is married to the former Jane Leslie Waguespack and they reside with their five children, Jane, Leslie, Michael Janssens, III, Megan Elizabeth, Kevin Douglas and Sara Ellen at New Orleans

---

William D. Brown is the Chairman of the Junior Bar Section and its representative on the Board.

Born in Lake Providence in November, 1931, Mr. Brown attended and was graduated from the Lake Providence High School in 1948 and attended Kentucky Military Institute for a year immediately following. He entered Louisiana State University in 1949 and was graduated from that university with de-

grees of B.S. and L.L.B. in 1955.

While in college he was a member of Kappa Alpha Order, social fraternity, Phi Delta Phi, legal fraternity, Omicron Delta Kappa, leadership fraternity, Who's Who Among Students in American Universities & Colleges, and Order of the Coif. He served on the Louisiana Law Review from 1953 until 1955 and was a member of the Board of Editors for the years 1954-55.

After graduation Mr. Brown served in the United States Infantry for two years, stationed at Ft. Benning, Georgia.

He is a member of the Monroe Chamber of Commerce, the Monroe Rotary Club, the Monroe Junior Chamber of Commerce, the Board of Directors of the Lotus Club and a Vestryman in Grace Episcopal Church.

Engaged in the general practice of law in Monroe, Mr. Brown is a member of the firm of Theus, Grisham, Davis, Leigh and Brown.

During the years 1959-60 he served as Vice-Chairman of the Junior Bar Section of the State Bar Association and was elected Chairman at the 1960 Convention in Biloxi.

Mr. Brown is married to the former Eleanor Harris of Ruston and they have one son, William Denis Brown, III.

Oliver P. Stockwell is the member elected to the Board from the Council of the Louisiana State Law Institute.

WILLIAM D. BROWN

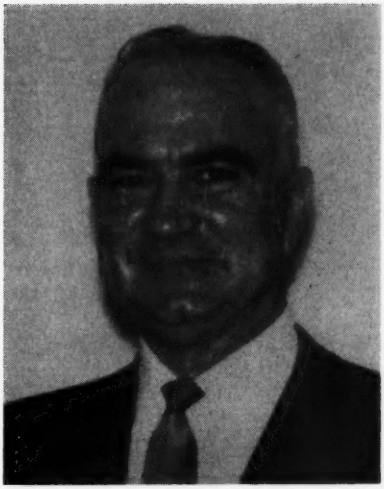
Born in East Baton Rouge Parish August 11, 1907, Mr. Stockwell graduated from Central High School in East Baton Rouge Parish. He received his LLB Degree from Louisiana State University in 1932 and was valedictorian of his graduating class. While in college he was a member of the Order of the Coif and Lambda Chi Alpha Fraternity.

Mr. Stockwell is a former president of the Southwest Louisiana Bar Association, the Lake Charles Kiwanis Club, the State Association of Young Men's Business Clubs, the Young Men's Business Club of Lake Charles, the Lake Charles Association of Commerce and the L.S.U. Law School Alumni. He is also a former Chairman of the Mineral Law Section and Section of Trust Estates, Probate and Immovable Property Law of the State Bar Association.

At present he is a member of the Southwest Louisiana Bar Association, American Bar Association, Inter-American Bar Association, International Bar Association, International Association of Insurance Counsel, American Law Institute, Council of Louisiana State Law Institute, and Fellow of American College of Trial Lawyers. Mr. Stockwell is also Chairman of the Greater Lake Charles, Sulphur, Westlake Metropolitan Planning Commission and a member of the Committee on Professional Ethics and Grievances of the State Bar Association.

During the war Mr. Stockwell was a Lieutenant in the U. S. Navy.

He is married to the former Roscina Holcombe, and they have one daughter. Mr. and Mrs. Stockwell reside in Lake Charles.



OLIVER P. STOCKWELL

HEARD AROUND THE DISTRICTS

Kudos and Appointments

By order of the Supreme Court dated August 12, 1960, *Pat W. Browne, Sr.,* New Orleans, has been appointed a member of the Committee on Professional Ethics and Grievances, in lieu of *Mr. Alvin R. Christovich, Sr.,* Vice-President, resigned.

Judge *J. Cleveland Fruge* has been elected to a six-year term on the Third Circuit Court of Appeals, Lake Charles, following 25 years of service as Judge of the 13th Judicial District Court in Ville Platte.

James Thomas Connor and Tulane's Dean, *Ray Forrester,* were named as delegates to the 69th National Conference of Commissioners on Uniform State Laws.

The Alexandria Bar Association recently honored former District Judge *William A. Culpepper* who left the District Bench to take his seat on the new Third Circuit Court of Appeals.

Law Firm Announcements

Raoul Sere' has opened his office for the general practice in New Orleans . . . *Veil David DeVillier, Jr.,* has opened his office for the general practice in Eunice . . . *J. D. DeBlieux* has announced the association of *John Dale Powers* in his law offices in Baton Rouge . . . *Anderson, Swift, Hall, Raggio & Farrar* announce the change of the firm name to *Anderson, Hall, Raggio & Farrar* because of the election of *G. William Swift, Jr.,* to the judiciary . . . *James W. Hailey, Jr.,* has become associated with the New Orleans firm of *Adams and Reese* . . . The firm of *Doyle, Smith & Doyle,* New Orleans, announces that *Joseph A. Watters* has become a member of that firm and *Maurice J. Naquin, Jr.,* has become associated with the firm . . . *Jones, Walker, Waechter, Poitevant, Carriere & Denegre* announce that *Patrick W. Browne, Jr.,* and *Joseph Bernstein* have become members of the firm and *Charles K. Reasonover* and *Thomas P. Walshe, Jr.,* have become associated.

Baton Rouge Atty. Receives Award

At a luncheon held recently Baton Rouge attorney, *Ben R. Miller,* received the highest honor Norway can bestow, the Royal Norwegian Order of St. Olav, for work performed while serving as vice-consul for Norway at the port of Baton Rouge from 1953 through 1958.

Lafayette Bar Elects Officers

New officers of the Lafayette Bar Association elected on August 11, 1960, include *Joseph J. Piccione,* President; *Lucien C. Bertrand, Jr.,* Vice-President; *Phil Trice,* Secretary; and *Bob F. Wright,* Treasurer.

Honored On 50th Year

The 23rd Judicial District Bar Association recently held a banquet to honor the 50th anniversary of the admission to the Bar of Judge *Clyde V. St. Amant,* Gonzales, and *Sidney A. Marchand,* Donaldsonville.

Junior Bar Activities

by Curtis R. Boisfontaine and Ralph J. Wicker

The first meeting of the Council of the Junior Bar Section was held in New Orleans on June 18, 1960, in the offices of the Louisiana State Bar Association. This meeting was devoted almost exclusively to the assignment of committees and to the initiation of various programs to be undertaken by the Section during this year.

It was felt that the membership of the Section should be afforded more opportunity for association together than is presently available through the yearly meeting, and accordingly, each district representative has been assigned the responsibility of producing at least one local function within his district this year. In this respect, it was noted that the nature of the function could be of a social as well as business nature, since the primary aim in holding these local meetings is to activate the membership of the Junior Bar, in meeting together in discussion of mutual problems.

Program of Seminar on Revised Appellate Jurisdiction

The Chairman of the Section, William D. Brown, has personally undertaken the promotion and presentation of the one day professional program to coincide with the next scheduled Council meeting, to be held in Baton Rouge on October 1, 1960. This program will be in the nature of a seminar devoted to a discussion of the Revised Appellate Jurisdiction of Louisiana and is designed for the attendance of all interested members of the Louisiana State Bar Association. A tentative schedule follows:

Junior Bar Seminar
Louisiana State University
Law Auditorium
Baton Rouge, Louisiana
October 1, 1960

10:00 A.M.: Panel Discussion
Honorable G. W. Hardy, Jr., Judge, Second Circuit Court of Appeals, Moderator

Honorable R. S. Ellis, Jr., Judge, First Circuit Court of Appeals, Panelist

Continued on Page 143

Messrs. Boisfontaine and Wicker are both members of the Junior Bar Section and Co-Chairmen of that Section's Committee on Public Relations. Mr. Boisfontaine is also Vice-Chairman of the Section. This article was prepared after a meeting of the Junior Bar Council held in New Orleans on June 18, 1960, and gives the results of that meeting.

Shown in attendance at the meeting of the Council of the Junior Bar Section, held in New Orleans June 18, 1960, are, left to right, standing, John M. Holahan, Thomas C. Wicker, Jr., Harry Hull, William H. Baker, and Jack Brook; seated, left to right, are pictured Curtis R. Boisfontaine, William D. Brown, Gus A. Fritchie, Jr., and John W. Haygood. Hull and Brook represented Loyola and L.S.U. law schools, respectively, as delegates from the student bars of those schools.

PATRONIZE OUR ADVERTISERS

The advertisers in this Journal are deserving of the full support of the LSBA membership. Each is skilled in the service to be rendered, or the product to be sold is one of the best available. Your support of their services and products is only reciprocal to their belief in this profession and its support.

JUNIOR BAR . . .
Continued from Page 141

Honorable Albert Tate, Jr., Judge Third Circuit Court of Appeals, Panelist

12:00 noon: Dutch Treat Luncheon At the Faculty Club L. S. U. Campus

1:30 P.M.: Resumption of Seminar with Questions Addressed to the Panel from the Floor.

3:00 P.M.: Adjournment

In conjunction with the Seminar, reservations for the Dutch Treat Luncheon should be made by contacting the Chairman, William D. Brown, 400 South Grand Street, Monroe, Louisiana.

Attendance at Council Meeting

Attending the Council meeting on June 18 were officers of the Student Bars of Louisiana State University and Loyola Law Schools, and in discussion with them, the need for a voluntary summer internship for Junior law students was apparent. The Council determined to explore the possibility of such a program, feeling that it would be of great benefit not only to the law student in his professional training, but also to the participating firms. Actual plans for this program are still in formulation, but tentatively the Council intends to compile lists of students willing to work in law offices in the summer between their Junior and Senior years, as well as lists of attorneys and firms of attorneys willing to employ such students.

Appointment of Delegates

Following the foregoing matters, the Council then appointed delegates of the Louisiana Junior Bar to the American Bar Association meeting, and William D. Brown of Monroe was appointed as well as Curtis R. Boisfontaine of New Orleans.

Since the meeting of the Council in June, the Chairman has completed his appointments of Committee Chairmen and the work of the various committees to the Junior Bar Section is now underway. It is hoped that by increased effort by the Council and members of the Junior Bar Section, that the Section will be better able to make real contributions to the Louisiana State Bar Association in this, and all future years.

LSBA STANDING COMMITTEES

1960-61

Admiralty

John W. Sims, New Orleans, *Chairman*
Warren Faris, New Orleans
Tom F. Phillips, Baton Rouge
Robert B. Acomb, Jr., New Orleans
Richard A. Anderson, Lake Charles

American Citizenship

Richard C. Cadwallader, Baton Rouge, *Chairman*
Leon F. Cambon, New Orleans
A. B. Atkins, Jr., Homer
Charles Lanier, New Orleans
James P. Madison, Bastrop
A. Murray Anderson, Lake Charles
Edwin L. Lafargue, Marksville
William O. Bonin, New Iberia
George S. Womack, Baton Rouge

Bar Admissions

Frank McLoughlin, New Orleans, *Chairman*
Solomon S. Goldman, New Orleans, *Secretary*
Thomas W. Davenport, Monroe
John R. Pleasant, Shreveport
Edmund McIlhenny, New Orleans
George T. Owen, Jr., Baton Rouge
Samuel W. Plauche, Jr., Lake Charles
Lawrence P. Simon, New Iberia
Edward F. Wegmann, New Orleans
Stephen A. Mascaro, *Assistant Secretary*

Bar Admissions Advisory

Robert N. Leavell, Tulane
Robert A. Pascal, LSU
DeVan D. Daggett, Jr., Loyola

Budget

Richard B. Sadler, Jr., Alexandria, *Ex-Officio Chairman*
Michael J. Molony, Jr., New Orleans
Felicien Y. Lozes, New Orleans

Continuing Professional Education

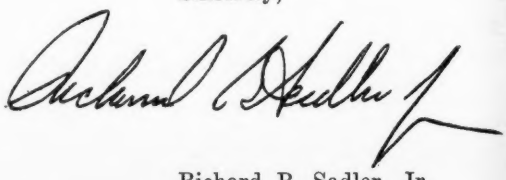
T. Haller Jackson, Shreveport, *Chairman*
George Foote, Alexandria
Robert Kleinpeter, Baton Rouge
J. Winston Fontenot, Lafayette
Richard E. Gerard, Lake Charles
W. T. Holloway, Jonesboro
John G. Weinmann, New Orleans

PRESIDENT'S PAGE . . .

Continued from Page 106

I wish to compliment the House of Delegates and the Committee on Law Reform for the good work accomplished at the meeting of the House of Delegates held in Baton Rouge during the last session of the Louisiana Legislature.

Sincerely,



Richard B. Sadler, Jr.,
President.

Alvin R. Christovich, Jr., New Orleans

Judicial Candidates, Selection of

J. J. Davidson, Lafayette, *Chairman*
Howard Lenfant, New Orleans
George B. Hall, Alexandria
Thomas W. Leigh, Monroe
Michael J. Molony, Jr., New Orleans
Victor Sachse, Baton Rouge
Oliver P. Stockwell, Lake Charles
Clarence L. Yancey, Shreveport

Law Book Publications

Jules L. Davidson, Alexandria, *Chairman*
Ben Tucker, Hammond
John M. Duhe, Jr., New Iberia
Henry Alsobrook, New Orleans
Philip Spencer, New Orleans
Charles C. Barham, Ruston
William C. Sandoz, Opelousas
Howard E. Spann, Mansfield

Lawyer Reference Plan

H. Payne Breazeale, Jr., Baton Rouge, *Chairman*
Grove Stafford, Jr., Alexandria
Robert Roberts III, Shreveport
Michael H. Bagot, New Orleans
J. Burton Willis, St. Martinville
Edel F. Blanks, Jr., Monroe
Joseph D. Aron, Jr., Crowley
Nicholas J. Gagliano, New Orleans

Law Reform
1st and 2nd Congressional Districts

Eberhard Deutsch, New Orleans, *Chairman,* 3 years
Ray Forrester, Tulane University, 3 years
Robert Ainsworth, Jr., New Orleans, 2 years
Guy J. D'Antonio, New Orleans, 1 year
Felicien Y. Lozes, New Orleans, 1 year
Joseph McCloskey, New Orleans, 1 year
Ashton Phelps, New Orleans (at large) 1 year

3rd Congressional District

Jack C. Caldwell, Franklin, 3 years
Claude B. Duval, Houma, 2 years
Earl H. Willis, St. Martinville, 1 year

4th Congressional District

John R. Pleasant, Shreveport, 3 years
Dixon Carroll, Shreveport (at large) 3 years
Clyde W. Thurmon, Shreveport, 2 years
A. B. Atkins, Jr., Homer, 1 year

5th Congressional District

H. Flood Madison, Bastrop, 3 years
Edgar H. Lancaster, Jr., Tallulah, 2 years
Thomas W. Davenport, Monroe, 1 year

6th Congressional District

Ben R. Miller, Baton Rouge, *Vice Chairman,* 3 years
Jim W. Richardson, Bogalusa (at large) 2 years

ANNUAL LEGAL CHECK-UP . . .

Continued from Page 112

for advertisements which can be run in the local newspapers will be available on request. Samples of the pamphlets, entitled "Check to Know", were in the packet mailed to all members of the bar in July. Proofs of the three sample newspaper ads will be sent to the local associations in the near future.

Charles W. Roberts, Baton Rouge, 2 years
J. Thomas Jewell, New Roads, 1 year

7th Congressional District

Stuart S. Kay, DeRidder, 3 years
Joe Bass, Lake Charles, 2 years
G. William Swift, Jr., Lake Charles, 1 year

8th Congressional District

Arthur C. Watson, Natchitoches, 3 years
Earl Edwards, Marksville, 2 years
George B. Hall, Alexandria, 1 year

Legal Aid

Arthur J. Cobb, Jr., Baton Rouge, *General Chairman*

Executive Committee

Arthur J. Cobb, Jr., Baton Rouge, *Chairman*
George B. Richard, Marrero
Walter I. Lanier, Thibodaux
Leroy C. Smallenberger, Shreveport
Fred Fudickar, Jr., Monroe
Fred A. Blanche, Jr., Baton Rouge
J. Norwell Harper, Lake Charles
Donald M. Garrett, Alexandria

1st and 2nd Congressional Districts

George B. Richard, Marrero, *Chairman*
Carl G. Buchmann, New Orleans
Rudolph M. McBride, Port Sulphur
Allen J. Tillery, Arabi
George T. Oubre, Norco
John L. Peytavin, Lutcher
Melvin P. Barre, Edgard

3rd Congressional District

Walter I. Lanier, Thibodaux, *Chairman*
Risley C. Triche, Napoleonville
Charles R. Prevost, Franklin
Edmond L. Guidry, Jr., St. Martinville
Philip J. Trice, Lafayette
Ray F. Mestayer, New Iberia
H. Minor Pipes, Houma
Frank W. Summers, Abbeville

4th Congressional District

Leroy C. Smallenberger, Shreveport, *Chairman*
Billy R. Robinson, Bossier City
Hal R. Henderson, Arcadia
Clifford E. Hays, Minden
Francis S. Craig, Mansfield
George T. Anderson, Jr., Coushatta
Wm. F. M. Meadors, Jr., Homer

5th Congressional District

Fred Fudickar, Jr., Monroe, *Chairman*
W. Dan Files, Bastrop
Miss Alwine L. Mulhearn, Tallulah
Howard W. Wright, Ruston
John M. Hester, Lake Providence
Warren Hunt, Rayville
Burton L. Wade, St. Joseph
Robert V. Reeves, Oak Grove

John J. McKeithen, Columbia
Henry A. Taliaferro, Harrisonburg
Gerald N. Sims, Vidalia
William H. Baker, Jonesboro
David J. Anders, Jr., Winnsboro
James M. Dozier, Jr., Farmerville

6th Congressional District

Fred A. Blanche, Jr., Baton Rouge, *Chairman*
Gordon Goodbee, Covington
Ian W. Claiborne, New Roads
James H. Kilbourne, St. Francisville
William O. Templet, Plaquemine
Mrs. Helen K. Overton, Clinton
Leslie B. Ponder, Jr., Amite
James M. Cudd, Livingston
Delos R. Johnson, Jr., Franklinton
Daniel P. Kimball, Port Allen
Perry Smith, Gonzales
Edwin C. Schilling, Jr., Greensburg

7th Congressional District

J. Norwell Harper, Lake Charles, *Chairman*
William C. Pegues III, DeRidder
Alfred R. Ryder, Oberlin
Lewis J. Mayeux, Crowley
James G. Dubuisson, Opelousas
Charles R. Cassidy, Jennings
Jennings B. Jones, Jr., Cameron
J. Burton Foret, Ville Platte

8th Congressional District

Donald M. Garrett, Alexandria, *Chairman*
Eustace L. Edwards, Jr., Many
J. L. Funderburk, Jr., Leesville
Donald R. Thornton, Winnfield
Sam Nelken, Natchitoches
Leonard W. Richey, Jena
Marc Dupuy, Marksville
Wilbur T. McCain, Colfax

Legal Education and Admission to the Bar

J. Charles Burden, Alexandria, *Chairman*
Adrian G. Duplantier, New Orleans
Harry R. Nelson, Shreveport
Pierre D. Olivier, Lafayette
J. Barnwell Phelps, New Orleans
Edmund M. Reggie, Crowley
Henry C. Sevier, Jr., Tallulah
B. B. Taylor, Jr., Baton Rouge

Obituaries

Eugene D. Saunders, New Orleans, *Chairman*
John L. Avant, Baton Rouge
William H. Baker, Jonesboro
Remy Chaisson, Thibodaux
Roy M. Fish, Springhill
John P. Hammond, New Orleans
DeWitt T. Methvin, Jr., Alexandria
J. W. Pucheu, Ville Platte

Professional Ethics & Grievances

John Pat. Little, New Orleans, *Chairman*
Bascom D. Talley, Jr., Bogalusa, *Vice Chairman*
Pat W. Browne, Sr., New Orleans
A. K. Goff, Jr., Ruston
Oliver P. Stockwell, Lake Charles
W. W. Thimmesch, *Secretary*
Stephen A. Mascaro, *Asst. Secretary*

Public Relations

Bascom D. Talley, Jr., Bogalusa, *Chairman*
Kent Breard, Monroe
John W. Bryan, Jr., New Orleans

Howard B. Gist, Jr., Alexandria
T. Haller Jackson, Jr., Shreveport
Arthur Macy, Hammond
Joseph Onebane, Lafayette
Bat P. Sullivan, New Orleans
John R. Stewart, Lake Charles

Publications

Richard B. Sadler, Jr., Alexandria, *Ex-Officio Chairman*
Roy L. Price, Metairie
Paul M. Hebert, LSU
John J. McAulay, Loyola
Ralph Slovenko, Tulane

Resolutions

Harry McCall, New Orleans, *Chairman*
J. J. Davidson, Lafayette, *Vice-Chairman*
Ledoux Provosty, Alexandria
Charles W. Wilson, Baton Rouge
Clarence L. Yancey, Shreveport

Unauthorized Practice of the Law

James H. Drury, New Orleans, *Chairman*
Walter G. Arnette, Jennings
Thomas Hayes, Monroe
William Polk, Alexandria
Howard B. Gist, Jr., Alexandria
Tom Horne, Jr., Franklin
Iddo Pittman, Jr., Hammond
James A. Van Hook, Shreveport
Russell Schonekas, New Orleans
J. Norwell Harper, Lake Charles
Arthur J. Waechter, Jr., New Orleans

LSBA SPECIAL COMMITTEES

Annual Conf. of Circuit & Dist. Judges of the Fifth District

James J. Davidson, Lafayette
Alternate: Richard A. Anderson, Lake Charles
W. Scott Wilkinson, Shreveport
Alternate: Clarence Yancey, Shreveport
Maurice J. Wilson, Baton Rouge
Alternate: Arthur J. Waechter, New Orleans

Cooperation with Inter-American Bar Assn.

Augusto P. Miceli, New Orleans, *Chairman*
Samuel W. Plauche, Jr., Lake Charles
John H. Tucker, Jr., Shreveport
Max M. Schaumburger, New Orleans.
Benjamin W. Yancey, New Orleans

Client Security Fund

John W. Bryan, Jr., New Orleans *Chairman*
George T. Madison, Bastrop
Robert G. Polack, New Orleans

Economic Survey of the Legal Profession in La.

Richard B. Montgomery, New Orleans, *Chairman*
Harry V. Booth, Shreveport
Carroll W. Buck, Amite
Frederick J. Gisevius, Jr., New Orleans
Raymond H. Kierr, New Orleans
Nat B. Knight, Jr., Gretna
Donald Labbe, Lafayette
Charles L. Mayer, Shreveport
Harry E. McEnerny, New Orleans
William F. M. Meadows, Homer
Vance Plauche, Lake Charles
LeDoux R. Provosty, Alexandria

Arthur C. Watson, Natchitoches
Gerard H. Schreiber, New Orleans

Family or Juvenile Courts

Walter M. Hunter, Judge, Alexandria, *Chairman*
Frank Voelker, Judge, Lake Providence
Jesse S. Heard, Judge, West Monroe
Allen Lecompte, Judge, DeRidder
Leo B. Blessing, Judge, New Orleans
Chris T. Barnette, Judge, Shreveport
James P. O'Connor, Judge, New Orleans
George M. Foote, Judge, Alexandria
A. J. Jones, Judge, Bogalusa
Allen B. Pierson, Judge, Ponchatoula
Murray Anderson, Judge, Lake Charles
James Lee, Judge, Bunkie
C. W. Berry, Jr., Oakdale
Hiram J. Wright, Winnfield
William C. Falkenheiner, Ferriday
Jack O. Brittain, Natchitoches
Melvin J. Duran, New Orleans

Feasibility of a Lawyers' Title Guaranty Fund

Fred A. Blanche, Sr., Baton Rouge, *Chairman*
Henry Bernstein, Jr., Monroe
Curtis Boisfontaine, New Orleans
Thomas L. Raggio, Lake Charles
J. Winston Fontenot, Lafayette

Insurance

William E. Skye, Alexandria, *Chairman*
Earl H. Edwards, Marksville
H. Martin Hunley, Jr., New Orleans
T. Haller Jackson, Jr., Shreveport
Iddo Pittman, Jr., Hammond
Mary M. Robinson, Baton Rouge
Louis D. Smith, Monroe

Louisiana Formulary Annotated

Sumter D. Marks, Jr., New Orleans, *Chairman*
Robert U. Goodman, Shreveport
Neilson S. Jacobs, Shreveport
William F. M. Meadors, Homer
A. K. Goff, Jr., Ruston
Robert C. Downing, Monroe
Louis D. Smith, Monroe
Carey J. Ellis, Jr., Rayville
John C. Morris, Jr., Rayville
George Bolton, Rayville
Frank Voelker, Jr., Lake Providence
E. Leland Richardson, Baton Rouge
John J. Peters, Winnfield
Hiram J. Wright, Winnfield
T. C. McLure, Jr., Alexandria
Arthur C. Watson, Natchitoches
Jack O. Brittain, Natchitoches
L. E. Colvin, Mansfield
Jack L. Simms, Leesville
Roland B. Reed, Ville Platte
Stuart S. Kay, DeRidder
W. E. Hall, Jr., DeRidder
L. H. Coltharp, Jr., DeRidder
Oliver P. Stockwell, Lake Charles
Fred H. Sievert, Jr., Lake Charles
Winston Fontenot, Lafayette
Welton P. Mouton, Lafayette
Lucien C. Bertrand, Jr., Lafayette
Frank W. Summers, Abbeville
James L. Helm, New Iberia
William O. Bonin, New Iberia
Henry J. Dauterive, Jr., New Iberia
Edmond L. Guidry, Jr., St. Martinville
Earl Willis, St. Martinville
Jack C. Caldwell, Franklin
Charles Wheeler Darnall, Jr., Franklin
Claude Duval, Houma
Elton A. Darsey, Houma
Walter Lanier, Thibodaux
J. Evan Delahaye, Plaquemine

Charles H. Dameron, Plaquemine
Charles O. Dupont, Plaquemine
J. Thomas Jewell, New Roads
Francis Douglas Jewell, New Roads
Ian William Claiborne, New Roads
Ben R. Miller, Baton Rouge
Richard Kilbourne, Clinton
Davis F. Reid, Amite
Dalton J. Barranger, Covington
George R. Blum, Donaldsonville
A. N. Simmons, Jr., Napoleonville
William J. White, Gretna
Dan W. Stewart, Minden
Leon S. Haas, Jr., Opelousas
Cameron C. Minard, Columbia
William H. Baker, Jonesboro
J. Huntington Odom, Baton Rouge
Daniel J. Shea, Shreveport
J. J. Davidson, Lafayette
Herman Midlo, New Orleans
J. D. DeBlieux, Baton Rouge
Charles J. Rivet, New Orleans
Leon Sarpy, New Orleans
William E. Crawford, New Orleans
Walter J. Suthon, Jr., New Orleans
Bernhardt C. Heebe, New Orleans
M. Truman Woodward, Jr., New Orleans
Ralph N. Jackson, New Orleans
Peter Beer, New Orleans
Charles M. Lanier, New Orleans

Past Presidents Advisory

Charles F. Fletchinger, New Orleans
Charles Cecil Bird, Jr., Baton Rouge
Robert E. Brumby, Franklin
Charles Vernon Porter, Baton Rouge
Eugene Stanley, New Orleans
LeDoux R. Provosty, Alexandria
Sumter D. Marks, Jr., New Orleans
H. Payne Breazeale, Baton Rouge
Howard B. Gist, Alexandria
Cuthbert S. Baldwin, New Orleans
Henry P. Dart, Jr., New Orleans
George T. Madison, Bastrop
Walter J. Suthon, Jr., New Orleans
Richard B. Montgomery, New Orleans
Thomas W. Leigh, Monroe
Clarence L. Yancey, Shreveport
James J. Davidson, Lafayette
Harry McCall, New Orleans
Fred A. Blanche, Sr., Baton Rouge.

Retirement Benefits

George T. Madison, Bastrop, *Chairman*
Cuthbert S. Baldwin, New Orleans
Thomas W. Leigh, Monroe
Ben R. Miller, Baton Rouge
Richard B. Montgomery, New Orleans
LeDoux R. Provosty, Alexandria
Clarence L. Yancey, Shreveport

Revision of the Jurisdiction of Appellate Courts

Paul M. Hebert, Baton Rouge, *Chairman*
T. C. McLure, Jr., Alexandria
Donald Labbe, Lafayette
Richard E. Gerard, Lake Charles
Thomas W. Leigh, Monroe
Charles F. Fletchinger, New Orleans
Robert Roberts, Jr., Shreveport
H. Payne Breazeale, Sr., Baton Rouge
Joseph McCloskey, New Orleans
LeDoux R. Provosty, Alexandria
George Pugh, Baton Rouge
Claude B. Duval, Houma

On Complaints Not Constituting Violations of Canons

Clarence L. Yancey, Shreveport, *Chairman*
Thomas M. Hayes, Monroe
John Pat. Little, New Orleans
Oliver P. Stockwell, Lake Charles
J. J. Davidson, Lafayette

LSBA House of Delegates

1960-61

STANDING COMMITTEES

Credentials & Admissions

Frank S. Craig, Jr., Baton Rouge, *Chairman*
Charles C. Hunter, Mansfield
Bat P. Sullivan, Jr., New Orleans

Rules & Agenda

George Hall, Alexandria, *Chairman*
Thomas L. Horne, Jr., Franklin
Ronald L. Davis, Jr., Monroe
Fred J. Cassibry, New Orleans
John Hickman, Lake Charles

Draft

Bob LeCorgne, New Orleans, *Chairman*
Gus Fritchie, Jr., Slidell
Richard E. Talbot, Houma
Pike Hall, Jr., Shreveport
Louis G. DeSonier, Metairie

Liaison

James H. Drury, New Orleans, *Chairman*
Jacob S. Landry, New Iberia
W. Davis Cotton, Rayville

SPECIAL COMMITTEES

Study of Proposed Bar Foundation

Paul G. Borron, Jr., Plaquemine, *Chairman*
Numa V. Bertel, New Orleans
Leon Sarpy, New Orleans
William D. Brown, Monroe
Howard B. Gist, Sr., Alexandria

Revision of Criminal Appellate Jurisdiction

Earl S. Willis, St. Martinville, *Chairman*
Ed. H. Lancaster, Tallulah
Stephen P. Dart, St. Francisville
John R. Pleasant, Shreveport
Felicien Y. Lozes, New Orleans

AYRES . . .

Continued from Page 124

coordinate. Such decisions are, however, persuasive, and will be generally adhered to, where not clearly erroneous, until the principle is otherwise settled by decision of a higher court.

There is a trend of thought that adherence to stare decisis must be considerably modified in the light of changing social and economic conditions, as well as scientific developments.

However, it is felt that some courts have been inclined to make unwarranted excursions into the field of sociology and allied fields. The suggestion of Dean Pound that judges should become "social engineers" has seemingly been taken too literally in some quarters.

Considerable doubt has been expressed to the wisdom of adherence to the doctrine where its application results in the denial of justice between the parties in an instant case or where the pronouncement is concededly incorrect or outworn.

In preparation for this discussion, I have thus endeavored to acquaint myself with the fundamental rules pertaining to precedents and to the rule of stare decisis. I believe, firmly, in these principles and that the rules should be given effect wherever possible and wherever justice will be served. Their application tends to harmony, stability, and uniformity. Moreover, their application may be utilized as a time-saving and labor-saving device, eliminating the expenditure of both time and energy which might otherwise be necessary in research.

I am particularly elated, in the preparation of an opinion, when I find an authority directly in point which reflects study and sound logic of its author. This is particularly true when I agree with that opinion. Even where I disagree, if I am unable to present better reasons or more feasible logic in support of a contrary view, I feel that I should, and I inevitably do, accept the authority as a precedent.

Disagreements in the Courts

There will always be disagreements, among us as members of our own courts and among the circuits as separate courts, on the many factual and legal propositions submitted for resolution. It is only natural and human, as the judges are human and separate identities, that we should honestly differ in our opinions. Thus, it may be expected that identical issues may be resolved differently among our circuits. These differences likely may be increased as the personnel of our courts are increased, as each will bring into effective use, not only his personal views, but his experience as a practicing lawyer and/or as judge of a trial court. Differences will also arise from further study and consideration of issues heretofore determined. The matters may be approached from new and varied viewpoints. Differences and conflicts therefore appear inevitable.

What are we, as members of the several circuit courts of appeal, to do in resolving these differences and avoiding or correcting the conflicts with which we will inevitably be confronted? My personal opinion is that we will do about what we have done heretofore, that is, study and consider one another's opinions and attempt to reconcile our own views and pronouncements with those expressed by the other circuits. Constitutionally, that appears to be about the limit and extent of our authority. The final arbiter will continue to be the Supreme Court which, by use of its supervisory authority, may resolve the differences between the circuits.

It is our duty, as intermediate appellate courts, to point out areas of conflict and to suggest reconciliation of such conflicts by the Supreme Court. We feel that we may also, with propriety, point out to that court the need for a change in, or reversal of, the jurisprudence.


eans a
which
NDUM
AY
led
request
. 2, MINN